

Volume 31, Number 10

Pages 761-838

May 15, 2006

SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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The *Missouri Register* is published semi-monthly by

SECRETARY OF STATE

ROBIN CARNAHAN

Administrative Rules Division

James C. Kirkpatrick State Information Center

600 W. Main

Jefferson City, MO 65101

(573) 751-4015

DIRECTOR

BARBARA WOOD

.

EDITORS

BARBARA MCDUGAL

JAMES MCCLURE

.

ASSOCIATE EDITORS

CURTIS W. TREAT

SALLY L. REID

.

PUBLISHING STAFF

WILBUR HIGHBARGER

JACQUELINE D. WHITE

ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO
Subscription fee: \$56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

MISSOURI REGISTER

Office of the Secretary of State

Administrative Rules Division

PO Box 1767

Jefferson City, MO 65102

The *Missouri Register* and *Code of State Regulations* (CSR) are now available on the Internet. The Register address is <http://www.sos.mo.gov/adrules/moreg/moreg.asp> and the CSR is <http://www.sos.mo.gov/adrules/csr/csr.asp>. These websites contain rulemakings and regulations as they appear in the Registers and CSR. These websites do not contain the official copies of the Registers and CSR. The official copies remain the paper copies published by the Office of the Secretary of State pursuant to sections 536.015 and 536.031, RSMo Supp. 2005. While every attempt has been made to ensure accuracy and reliability, the Registers and CSR are presented, to the greatest extent practicable as they appear in the official publications. The Administrative Rules Division may be contacted by e-mail at rules@sos.mo.gov.

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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The *Missouri Register* and the *Code of State Regulations*, as required by the Missouri Documents Law (section 181.100, RSMo Supp. 2005), are available in the listed participating libraries, as selected by the Missouri State Library:

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2005.

EXECUTIVE ORDER

06-20

WHEREAS, severe storms occurred on March 30 and April 2, 2006, causing numerous tornadoes, high winds, hail, extremely heavy thunderstorms and flooding, across the entire state of Missouri, including the counties of Andrew, Atchison, Cooper, Dunklin, Holt, Marion, Monroe, New Madrid, Pemiscot, Pettis, Ralls, Shelby, Stoddard, St. Charles and St. Louis County; and

WHEREAS, this severe natural disaster has already resulted in extensive economic and human damage across the aforementioned counties, including, as of the time of this Executive Order, 3 deaths, more than 25 injuries, destruction of 60% of the City of Caruthersville, Missouri, the widespread interruption of electrical power to public utility customers across the aforementioned affected counties, and the temporary relocation of hundreds of persons from these counties, which will eventually require the return of these displaced persons to their homes; and

WHEREAS, these extreme weather conditions, and the resulting destruction of property, interruption of essential human services, and potential dangers to and loss of human life, now require and will continue to require a massive public and private response to provide immediate, emergency assistance and continuing emergency relief to individual persons, businesses, and local governmental units in need of transportation for food, supplies, tools, equipment, medicine, public and private health care, law enforcement, security services, public utility services, sanitation and waste disposal, cleanup of debris, property restoration and reconstruction, and other necessities, which threatens to overload the available transportation systems to, from, and within these affected states; and

WHEREAS, on April 3, 2006, I declared a state of emergency for the entire State of Missouri and directed the Missouri State Emergency Operations Plan be activated; and

WHEREAS, the safety and welfare of the citizens of the aforementioned affected Missouri counties require that operators of commercial motor carriers upon the public highways within Missouri, who are rendering assistance to the emergency efforts within the affected counties, should be allowed more rapid and efficient travel to meet this emergency need for transportation of passengers and property; and

WHEREAS, this requirement for more rapid and efficient transportation would be facilitated by the temporary suspension of certain usual and necessary federal and state laws, regulations and administrative rule requirements for the drivers of commercial motor vehicles, while they are transporting property and passengers to assist in the emergency relief efforts.

NOW THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, hereby declare that I acknowledge the existence of a regional state of emergency, within the meaning of Title 49, Code of Federal Regulations, Section 390.23(a)(1), within the counties of Andrew, Atchison, Cooper, Dunklin, Holt, Marion, Monroe, New Madrid, Pemiscot, Pettis, Ralls, Shelby, Stoddard, St. Charles and St. Louis County, as a result of the severe weather conditions described above; and

FURTHER, I direct that the commercial motor vehicle federal regulatory requirements relating to drivers hours of service requirements in Title 49, Code of Federal Regulations, shall be suspended for the duration of this Executive Order; and

FURTHER, I direct that the commercial motor vehicle regulatory requirements regarding the purchase of trip permits for registration and fuel for commercial motor carriers engaged in intrastate disaster relief efforts in the counties of Andrew, Atchison, Cooper, Dunklin, Holt, Marion, Monroe, New Madrid, Pemiscot, Pettis, Ralls, Shelby, Stoddard, St. Charles and St. Louis County, shall be waived; and

FURTHER, I direct that the issuance of overdimension and overweight permits by the Missouri Department of Transportation for commercial motor carriers engaged in intrastate disaster relief efforts in the counties of, Andrew, Atchison, Cooper, Dunklin, Holt, Marion, Monroe, New Madrid, Pemiscot, Pettis, Ralls, Shelby, Stoddard, St. Charles and St. Louis County shall be subject to the following interim application requirements in obtaining such a permit:

The permittee will be required to supply:

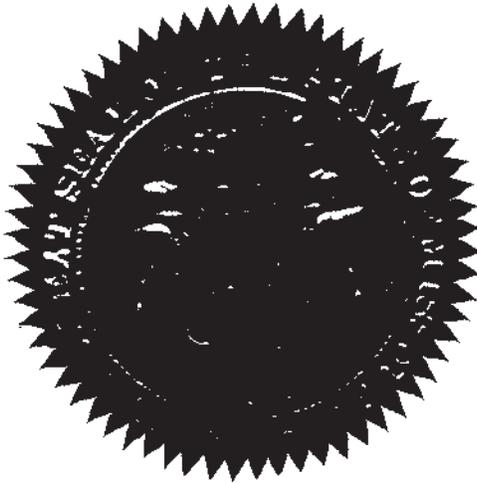
Year, Make and License plate number of the power unit and trailer;
Size, Make and Serial Number (last 4 digits) of commodity being hauled;
Origin, Destination and Consecutive Routing;
Overall Width, Height, Length and length of trailer and load only; and
Date of Movement.

The permit process can be expedited by calling:

800-877-8499
573-526-5314; or
573-526-5312.

However, this Executive Order shall not suspend the applicability of the standard permit fee requirements; and

FURTHER, I direct that the effective date of this Executive Order shall begin on April 5, 2006, and such Executive Order shall continue in effect until May 3, 2006, unless extended in whole or in part.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 5th day of April, 2006.

A handwritten signature in black ink that reads "Matt Blunt". The signature is written in a cursive style with a large, prominent "M".

Matt Blunt
Governor

ATTEST:

A handwritten signature in black ink that reads "Robin Carnahan". The signature is written in a cursive style with a large, prominent "R".

Robin Carnahan
Secretary of State

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the Missouri Register is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the Missouri Register. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the Missouri Register.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed Aug. 15, 1973, effective Dec. 31, 1973. For intervening history, please consult the Code of State Regulations. Amended: Filed April 17, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.110 General Prohibition; Applications. The commission proposes to amend subsections (1)(B) and (3)(F).

PURPOSE: This amendment updates the reference to the Missouri Species and Communities of Conservation Concern Checklist, and adds the Pacific white shrimp to the Approved Aquatic Species List.

(1) Possession of Native Species.
(B) Native invertebrates listed in the January [2005] 2006 edition of the Missouri Species and Communities of Conservation Concern Checklist may only be collected and held by holders of a Wildlife Collector's Permit and only as prescribed in 3 CSR 10-9.425. The Checklist is adopted as a part of this Code and by this reference is herein incorporated. A printed copy of this booklet can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and is online at www.missouriconservation.org. This rule does not incorporate any subsequent amendments or additions to the Checklist.

(3) Fish, tiger salamander larvae and crayfish may be bought, sold, transported, propagated, taken and possessed by any person without permit throughout the year in any number or size and by any method providing—

- (F) Approved Aquatic Species List.
1. Fishes.
A. Shovelnose sturgeon (Scaphirhynchus platyrhynchus)
B. Paddlefish (Polyodon spathula)
C. Spotted gar (Lepisosteus oculatus)
D. Longnose gar (Lepisosteus osseus)
E. Shortnose gar (Lepisosteus platostomus)
F. Bowfin (Amia calva)
G. American eel (Anguilla rostrata)
H. Gizzard shad (Dorosomacepedianum)
I. Threadfin shad (Dorosoma petenense)
J. Rainbow trout (Oncorhynchus mykiss)
K. Golden trout (Oncorhynchus aquabonita)
L. Cutthroat trout (Oncorhynchus clarkii)
M. Brown trout (Salmo trutta)
N. Brook trout (Salvelinus fontinalis)

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 4—Wildlife Code: General Provisions

PROPOSED AMENDMENT

3 CSR 10-4.111 Endangered Species. The commission proposes to amend subsection (3)(A).

PURPOSE: This amendment removes mountain lion as a mammal designated as endangered in Missouri.

(3) For the purpose of this rule, endangered species of wildlife and plants shall include the following native species designated as endangered in Missouri:

- (A) Mammals: gray bat, Ozark big-eared bat, Indiana bat, [mountain lion,] black-tailed jackrabbit, spotted skunk.

- O. Coho salmon (*Oncorhynchus kisutch*)
 - P. Northern pike (*Esox lucius*)
 - Q. Muskellunge (*Esox masquinongy*)
 - R. Goldfish (*Carassius auratus*)
 - S. Grass carp (*Ctenopharyngodon idella*)
 - T. Common carp (*Cyprinus carpio*)
 - U. Bighead carp (*Hypophthalmichthys nobilis*)
 - V. Golden shiner (*Notemigonus crysoleucas*)
 - W. Bluntnose minnow (*Pimephales notatus*)
 - X. Fathead minnow (*Pimephales promelas*)
 - Y. River carpsucker (*Cariodes carpio*)
 - Z. Quillback (*Carpoides cyprinus*)
 - AA. White sucker (*Catostomus commersoni*)
 - BB. Blue sucker (*Cycleptus elongatus*)
 - CC. Bigmouth buffalo (*Ictiobus cyprinellus*)
 - DD. Black bullhead (*Ameirus melas*)
 - EE. Yellow bullhead (*Ameirus natalis*)
 - FF. Brown bullhead (*Ameirus nebulosus*)
 - GG. Blue catfish (*Ictalurus furcatus*)
 - HH. Channel catfish (*Ictalurus punctatus*)
 - II. Flathead catfish (*Pylodictis olivaris*)
 - JJ. Mosquitofish (*Gambusia affinis*)
 - KK. White bass (*Morone chrysops*)
 - LL. Striped bass (*Morone saxatilis*)
 - MM. Green sunfish (*Lepomis cyanellus*)
 - NN. Pumpkinseed (*Lepomis gibbosus*)
 - OO. Warmouth (*Lepomis gulosus*)
 - PP. Orangespotted sunfish (*Lepomis humilis*)
 - QQ. Bluegill (*Lepomis macrochirus*)
 - RR. Longear sunfish (*Lepomis megalotis*)
 - SS. Redear sunfish (*Lepomis microlophus*)
 - TT. Smallmouth bass (*Micropterus dolomieu*)
 - UU. Spotted bass (*Micropterus punctulatus*)
 - VV. Largemouth bass (*Micropterus salmoides*)
 - WW. White crappie (*Pomoxis annularis*)
 - XX. Black crappie (*Pomoxis nigromaculatus*)
 - YY. Yellow perch (*Perca flavescens*)
 - ZZ. Sauger (*Sander canadensis*)
 - AAA. Walleye (*Sander vitreus*)
 - BBB. Freshwater drum (*Aplodinotus grunniens*)
2. Crustaceans.
- A. Freshwater prawn (*Macrabrachi um rosenbergii*)
 - B. Pacific white shrimp (*Litopenaeus vannamei*)**
 - [B.] C. Northern crayfish (*Orconectes virilis*)
 - [C.] D. White river crayfish (*Procamarusacutus*)
 - [D.] E. Red swamp crayfish (*Procam barusclarkii*)
 - [E.] F. Papershell crayfish (*Orconectes immunis*)
3. Amphibians.
- A. Tiger salamander larvae (*Ambystoma tigrinum*)

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-4.110(5), (6) and (10). Original rule filed June 26, 1975, effective July 7, 1975. For intervening history, please consult the **Code of State Regulations**. Amended: Filed April 17, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be

received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife:
Privileges, Permits, Standards

PROPOSED AMENDMENT

3 CSR 10-9.565 Licensed Hunting Preserve: Privileges. The commission proposes to amend paragraphs (1)(A)2., (1)(B)1. and (1)(B)7. of this rule.

PURPOSE: This amendment editorially corrects the proper reference to the small game hunting permit; provides minimum fencing specifications for hogs held for hunting under licensed hunting preserve permits; and, deletes paragraph (1)(B)7., which is duplicated in section (1).

(1) Licensed hunting preserves are subject to inspection by an agent of the department at any reasonable time. Animal health standards and movement activities shall comply with all state and federal regulations. Any person holding a licensed hunting preserve permit may release on his/her licensed hunting preserve legally acquired pheasants, exotic partridges, quail and ungulates (hoofed animals) for shooting throughout the year, under the following conditions:

(A) Game Bird Hunting Preserve.

1. The game bird hunting preserve shall be a single body of land not less than one hundred sixty (160) acres and no more than six hundred forty (640) acres in size. Game bird hunting preserves may be dissected by public roads, and shall be posted with signs specified by the department. Hunting preserve permits will not be issued for areas—

A. Within five (5) miles of any area where there is an ongoing department game bird release program or where the most recent release of department game birds has been made less than five (5) years prior to receipt of the application.

B. In any location where those activities are considered by the department as likely to further jeopardize any species currently designated by Missouri or federal regulations as threatened or endangered wildlife.

2. Any person taking or hunting game birds on a licensed hunting preserve shall have in his/her possession a valid [hunting] small game hunting permit or licensed hunting preserve hunting permit, except that persons fifteen (15) years of age or younger, when accompanied by a properly licensed adult hunter, and residents sixty-five (65) years of age and older, may hunt without permit. Licensed hunting preserve hunting permits may be issued to persons without requiring display of a hunter education certificate card for use on game bird hunting preserves; provided s/he is hunting in the immediate presence of a properly licensed adult hunter who has in his/her possession a valid hunter education certificate card.

3. Game birds taken on a hunting preserve may be possessed and transported from the preserve only when accompanied by a receipt listing the date, number and species taken, and name of the hunting preserve; or when accompanied by an approved transportation sticker for each game bird taken. Transportation stickers must be purchased from the department by the hunting preserve permittee. Game birds may be taken in any numbers on these preserves.

4. The permittee must release during the shooting season at least one (1) game bird per acre of hunting preserve, with at least one-half (1/2) of the birds to be bobwhite quail, if quail are to be hunted outside the statewide season. All birds shall be from a source approved by the department.

5. The permittee may exercise privileges provided in 3 CSR 10-9.353 for game birds held under this permit in propagation facilities

within or directly adjacent to the game bird hunting preserve. Propagation facilities may be separated from the hunting preserve by a public road, but must be directly adjacent. Any such propagation facilities shall meet standards specified in 3 CSR 10-9.220. Other propagation facilities not contained within or directly adjacent to the hunting preserve are not covered under the privileges of this rule.

(B) Big Game Hunting Preserve.

1. The big game hunting preserve for ungulates shall be a fenced single body of land, not dissected by public roads, and not less than three hundred twenty (320) acres and no more than three thousand two hundred (3,200) acres in size. The hunting preserve shall be fenced so as to enclose and contain all released game and exclude all hoofed wildlife of the state from becoming a part of the enterprise and posted with signs specified by the department. Fence height shall meet standards specified in 3 CSR 10-9.220. **Fencing for hogs shall be constructed of twelve (12) gauge woven wire, at least five feet (5') high, and topped with one (1) strand of electrified wire. An additional two feet (2') of such fencing shall be buried and angled underground toward the enclosure interior. A fence of equivalent or greater strength and design to prevent the escape of hogs may be substituted with written application and approval by an agent of the department.**

2. All elk, elk-hybrids, mule deer, and white-tailed deer introduced into a big game hunting preserve shall meet the following requirements:

A. Animals shall be tagged or marked in a method allowing each individual animal to be uniquely identified.

B. Animals imported into Missouri must come from a herd that is enrolled and has achieved a status two or higher in a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program—two (2) years of surveillance, advancement, and successful completion of program requirements.

C. Animals from within Missouri must come from a herd comprised of animals enrolled in a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program.

3. Effective January 1 of each year, one hundred percent (100%) of all elk, elk-hybrids, mule deer, and white-tailed deer over twelve (12) months of age that die of any cause within a big game hunting preserve operation, shall be tested for chronic wasting disease at a federally approved laboratory, up to an annual total of ten (10) animals in the aggregate, except:

A. No testing is required for big game hunting preserve operations that have not introduced, during the past three (3) years, any elk, elk-hybrids, mule deer or white-tailed deer from a herd having a status less than three as documented through a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program—three (3) years of surveillance, advancement, and successful completion of program requirements.

B. No testing is required for elk, elk-hybrids, mule deer, and white-tailed deer documented through Missouri's chronic wasting disease monitoring program as from a status five herd—five (5) years of surveillance, advancement, and successful completion of program requirements.

C. One hundred percent (100%) of all elk, elk-hybrids, mule deer and white-tailed deer that are imported into Missouri that are from a herd having a status less than three as documented through a United States Department of Agriculture or state-sponsored chronic wasting disease monitoring program that die of any cause within a big game hunting preserve shall be tested for chronic wasting disease at a federally approved laboratory.

4. All permits issued by the state veterinarian's office allowing cervids to enter Missouri and all chronic wasting disease test results must be kept by the permittee and are subject to inspection by an agent of the department at any reasonable time. All test results documenting a positive case of chronic wasting disease shall be reported immediately to an agent of the department.

5. The permittee may exercise privileges provided in 3 CSR 10-9.353 only for species held within breeding enclosure(s) contained within or directly adjacent to the big game hunting preserve. Any such breeding enclosure(s) shall meet standards specified in 3 CSR 10-9.220. Breeding enclosures may be separated from the hunting preserve by a public road, but must be directly adjacent. Other breeding enclosures not contained within or directly adjacent to the hunting preserve are not covered under the privileges of this rule.

6. Any person taking or hunting ungulates on a big game hunting preserve shall have in his/her possession a valid licensed hunting preserve hunting permit. The permittee shall attach to the leg of each ungulate taken on the hunting preserve a locking leg seal furnished by the department, for which the permittee shall pay ten dollars (\$10) per one hundred (100) seals. Any packaged or processed meat shall be labeled with the licensed hunting preserve permit number.

[7. *Animal health standards and movement activities shall comply with all state and federal regulations.*]

[8.] 7. Big game hunting preserve permittees shall report escaped animals immediately to an agent of the department.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-10.765. Original rule filed Jan. 19, 1972, effective Feb. 1, 1972. For intervening history, please consult the Code of State Regulations. Amended: Filed April 17, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Assistant Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Division 50—Workers' Compensation

Chapter 2—Procedure

PROPOSED RESCISSION

8 CSR 50-2.060 Performance Standards for Administrative Law Judges and Legal Advisors. This rule established the conduct, performance and productivity standards for administrative law judges and legal advisors.

PURPOSE: The division proposes to rescind this rule. Senate Bills 1 and 130 created an Administrative Law Judge Review Committee (the committee). The division director in conjunction with the committee is required to conduct a performance audit of all administrative law judges. In addition, the division director in conjunction with the committee shall establish written performance audit standards. A new proposed rule that sets forth the written performance audit standards that will be used for the administrative law judges is published in this issue of the Missouri Register.

AUTHORITY: section 287.610.2, RSMo Supp. 1998. Emergency rule filed Dec. 21, 1998, effective Jan. 1, 1999, expired June 29, 1999. Original rule filed Dec. 21, 1998, effective June 30, 1999. Rescinded: Filed April 12, 2006.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Division of Workers' Compensation, Attn: Patricia "Pat" Secrest, PO Box 58, Jefferson City, MO 65102-0058. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 50—Division of Workers' Compensation
Chapter 2—Procedure**

PROPOSED RULE

8 CSR 50-2.060 Performance Standards for Administrative Law Judges

PURPOSE: This rule establishes the performance standards for administrative law judges to be used in performance audits as mandated by section 287.610, RSMo.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) The director of the Division of Workers' Compensation shall perform an annual evaluation of all the chief administrative law judges. The chief administrative law judge of each local office shall perform an annual evaluation of all administrative law judges in the local office based on the standards adopted by the Administrative Law Judge Review Committee and set forth in this rule. The annual evaluations will be presented to the Administrative Law Judge Review Committee who will conduct a performance audit.

(2) The administrative law judges will be evaluated in the following areas and held to the standards set forth herein.

(A) Managing for Performance.

1. In section 287.203, RSMo hearings a decision is issued within thirty (30) days of the date of the hearing.

2. For all other hearings, except medical fee disputes on reasonableness, an administrative law judge shall issue a written award within ninety (90) days of the last day of the hearing. The hearing shall be concluded within thirty (30) days of the commencement of the hearing, except in extraordinary circumstances where a lengthy trial or complex issues necessitates a longer time than ninety (90) days.

(B) Meeting the Needs of Customers and Shareholders.

1. Ensures timely completion of work where applicable—

A. Decision to approve or deny a request for hearing is made within twenty (20) working days after receipt of a request;

B. Hearings are concluded within thirty (30) days of the commencement of the hearing, except in extraordinary circumstances where a lengthy trial or complex issues necessitates a longer time;

C. Date of hearing assigned for each case will be no more than one hundred twenty (120) days after the date that the request for hearing is approved, unless all parties agree otherwise; and

D. Upon receipt of a request, all cases will be set for conference, prehearing or mediation within one hundred twenty (120) days.

2. Ensures that employees and employers as well as their representative are treated in a respectful and courteous manner in accordance with the *Code of Judicial Conduct for Missouri Workers'*

Compensation Administrative Law Judges and Missouri Supreme Court Rule 2.

3. Establishes and maintains regular office hours which ensure accessibility to customers and shareholders.

4. Makes oneself available to and actively participate in meetings, seminars and/or conferences of employer and employee groups.

(C) Professional Development and Conduct.

1. Ensures ethical standards are maintained and followed, to include adherence to the guidelines outlined in both the Rules of Professional Conduct as well as the *Code of Judicial Conduct for Missouri Workers' Compensation Administrative Law Judges*.

2. Participates in the required fifteen (15) hours of Continuing Legal Education (CLE) courses as outlined and accredited by the Missouri Bar on an annual basis.

3. Attends and participates in required training that enhances education, knowledge and skill.

(D) Strategic Planning and Program Improvement.

1. Implements the division's internal procedures.

2. Participates in the strategic planning process.

3. Participates in internal workgroups to improve effectiveness and efficiency.

4. Available to serve in other locations as needed on a temporary basis.

5. Offers recommendations and suggestions for program improvement.

(3) This rule sets forth all the standards to be used to evaluate administrative law judges. The standards do not address the content of any award or decision issued by the administrative law judge.

(4) The division hereby adopts and incorporates by reference the *Code of Judicial Conduct for Missouri Workers' Compensation Administrative Law Judges*. This Code is published by the Division of Workers' Compensation, 3315 West Truman Blvd., Jefferson City, MO 65109; December 14, 2005 and does not include any later amendments or additions. A copy of the Code will be available at said address to the public for inspection and copying at no more than the actual cost of reproduction.

AUTHORITY: sections 287.610.2 and 287.610.10, RSMo Supp. 2005 and 287.650, RSMo 2000. Emergency rule filed Dec. 21, 1998, effective Jan. 1, 1999, expired June 29, 1999. Original rule filed Dec. 21, 1998, effective June 30, 1999. Rescinded and readopted: Filed April 12, 2006.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Division of Workers' Compensation, Attn: Patricia "Pat" Secrest, PO Box 58, Jefferson City, MO 65102-0058. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 30—State Tax Commission
Chapter 1—General Organization**

PROPOSED AMENDMENT

12 CSR 30-1.010 General Organization. The commission is amending section (8).

PURPOSE: This amendment corrects the mailing address of the commission by amending section (8).

(8) The State Tax Commission is located [at 621 E. Capitol Ave., P.O. Box 146, Jefferson City, MO 65102-0146, (314) 751-2414] in Jefferson City, Missouri. The mailing address is PO Box 146, Jefferson City, MO 65102-0146. The phone number is (573) 751-2414.

AUTHORITY: sections 138.290, 138.380, 138.390, 138.395, 138.410, 138.415, 138.420, 138.430, 138.440, and 138.450, RSMo [1986 and Supp. 1989] 2000. Original rule filed Sept. 15, 1976, effective Jan. 13, 1977. Amended: Filed April 17, 1979, effective July 16, 1979. Rescinded and readopted: Filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed April 13, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Secretary, State Tax Commission of Missouri, PO Box 146, Jefferson City, MO 65102-0146. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 30—State Tax Commission
Chapter 1—General Organization

PROPOSED AMENDMENT

12 CSR 30-1.020 Meetings and Hearings. The commission is amending section (1).

PURPOSE: This amendment corrects the address of the commission by amending section (1).

(1) The principal office of the State Tax Commission is located [at 623 East Capital Avenue] in Jefferson City. All general inquiries to the commission, cover letters, motions and other pleadings should be addressed to the Administrative Secretary, State Tax Commission of Missouri, P./O./J Box 146, Jefferson City, MO 65102-0146. All documents filed with the commission must be on eight and one-half by eleven inch (8 1/2" × 11") (letter size) paper.

AUTHORITY: section 138.430, RSMo [1986] 2000. Original rule filed Dec. 13, 1976, effective June 11, 1977. Amended: Filed Jan. 30, 1978, effective May 11, 1978. Amended: Filed April 12, 1979, effective July 16, 1979. Amended: Filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed April 23, 1984, effective Sept. 14, 1984. Amended: Filed April 13, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Secretary, State Tax Commission of Missouri, PO Box 146, Jefferson City, MO 65102-0146. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 30—State Tax Commission
Chapter 3—Local Assessment of Property and
Appeals From Local Boards of Equalization

PROPOSED RULE

12 CSR 30-3.090 Determining Class Life for Tangible Personal Property

PURPOSE: This rule sets out the publication assessors are to use when estimating value for depreciable tangible personal property for mass appraisal purposes.

(1) For purposes of assessors estimating the value of depreciable tangible personal property for mass appraisal purposes in accordance with section 137.122, RSMo, class life and recovery periods shall be determined by reference to Internal Revenue Service Publication 946—How to Depreciate Property or successor publications thereto. Specifically, class lives and recovery periods shall be determined by reference to Appendix B—Table of Class Lives and Recovery Periods. Class life shall be determined under Table B-1 and Table B-2 under the column—Class Life (in years). Recovery period shall be determined by the number corresponding to the Class Life number for given items of machinery, tools, appliances and equipment under the column—GDS (MACRS).

AUTHORITY: section 138.430, RSMo 2000. Original rule filed April 13, 2006.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Administrative Secretary, State Tax Commission of Missouri, PO Box 146, Jefferson City, MO 65102-0146. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 1—Organization

PROPOSED AMENDMENT

13 CSR 70-1.010 Organization and Description. The division is amending sections (1) and (2) to reflect the current organization and operations.

PURPOSE: This amendment provides updated information regarding the general organization and operations of the Division of Medical Services to comply with the requirements of section 536.023, RSMo.

(1) General Authority and Purpose.

(B) The Division of Medical Services is responsible for the administration of the medical assistance program in Missouri except for the determination of recipient eligibility for the program, which shall be the responsibility of the **Family Support Division** [of *Family Services*].

(2) Organization and Operations. The Division of Medical Services is located in Jefferson City at 615 Howerton Court. Contact can be

made by writing to the division at PO Box 6500, Jefferson City, MO 65102-6500. The Division of Medical Services is divided into six (6) major organizational components—administration and five (5) sections—*[institutional reimbursement, management services, operations, planning and budget, and policy.]* management services, finance, information services, program management, and pharmacy and clinical services.

(A) The director is in charge of the administration of the division. The director employs the necessary personnel and designates the subdivisions needed to perform the duties and responsibilities of the division. In addition to providing the overall direction of the agency, Administration is responsible for overseeing the filing of all state plan amendments and regulations, all aspects of personnel-related issues and directing of the Managed Care Program.

(B) The Institutional Reimbursement section is responsible for the administration of payments to hospitals, nursing facilities, and rural and federally qualified health clinics.

(C) The Management Services section is responsible for the administration and monitoring of consultant and professional services contracts. Other management services activities include third-party liability identification and recovery, claims adjustments and cash control. Management Services is also responsible for administering the payment of Medicare Part B premiums (Medicare Buy-In), the Qualified Medicare Beneficiary (QMB) program and the Health Insurance Premium Payment (HIPP) program.

(D) Operations is organized into six (6) units: Medicaid Management Information Systems (MMIS), Surveillance and Utilization Reviews, Provider Enrollment, Provider Education, Provider Communications, and Recipient Services. The operations section is responsible for monitoring the state's contract with the fiscal agent, investigation of over utilization or noncompliance with Medicaid policies and regulations, reviewing compliance of hospitals' utilization review plans, initiating administrative sanctions of providers due to disciplinary action by a professional licensing board, Medicare exclusion, repeated patterns of abuse or fraud against the Medicaid program, claims processing and maintaining reporting systems. Operations is also responsible for the program relations functions.

(E) The Planning and Budget section is responsible for preparation of the annual budget, preparation of fiscal note estimates for proposed legislation, and forecasting and monitoring Medicaid expenditures throughout the fiscal year.

(F) The Policy section is responsible for researching, developing implementing and monitoring programs that are the responsibility of the Medicaid agency.]

(A) The Director's Office provides the overall guidance and direction for the division and is responsible for establishing the agency's goals, objectives, policies, and procedures. The Director's Office is also responsible for providing legislative guidance on Medicaid and health care related issues, overseeing the distribution of federal and state resources, planning, analyzing and evaluating the provision of Medicaid services for eligible Missourians, and final review of the budget.

1. Office Services. This unit is responsible for processing invoices for all expenses incurred by the division and preparing purchase requests for all administrative supplies, equipment, and services. The unit is responsible for the internal allocation and financial monitoring of all of the division's operating expenses including all professional service consultant contracts. The unit oversees the division's reception area, processes and distributes all incoming and outgoing mail, and is responsible for the division's copy center.

(B) The Management Services section is divided into the following units:

1. Medicare Unit. This unit is responsible for ensuring that Medicare funds are utilized whenever possible in providing medical services to Medicaid clients. This is accomplished by the identification of those recipients who are, or who might be, Medicare eligible, the recovery of funds paid as Medicaid services for these clients, and the administration of Medicare Part B premiums.

2. Third Party Liability (TPL) Unit. This unit ensures that all potential, legally liable payers of medical services pay up to their liability to offset Medicaid expenditures. This is accomplished through cost avoidance and post-payment recovery (pay-and-chase or cash recovery).

A. Cost avoidance occurs when it is known that a third-party payer is responsible for payment prior to Medicaid payment. The TPL unit verifies commercial health insurance that is received from multiple sources. The insurance data is entered into the recipient eligibility file, which is also connected to the Medicaid claims payment processing system, and serves as a source of editing to determine claim payment or denial. Cost avoidance also occurs through the Health Insurance Premium Payment (HIPP) program. If a recipient has access to employer-sponsored health insurance, Medicaid will purchase the commercial health insurance if it is determined to be cost effective.

B. Post-payment recovery occurs when it is determined that a third party payer is potentially responsible for payment when a recipient receives medical services. Data matches and the Medicaid claims processing system determine potential recovery sources. TPL staff are responsible for the following recovery activities: burial plans, personal funds, estates, and trauma (includes personal injury, product liability, malpractice, traffic accidents, worker's compensation, and wrongful death). A contractor is primarily responsible for recovery of commercial health insurance payments.

C. These activities ensure that Medicaid funds are used only after all other potential resources available to pay have been exhausted.

(C) The Finance section is divided into the following units:

1. Managed Care Rate Setting. This unit is responsible for developing the capitation rates for the Medicaid Managed Care Program, the Nonemergency Medical Transportation Program, and the Program of All-Inclusive Care for the Elderly (PACE). The unit works closely with the contracted actuary in evaluating Medicaid Fee-For-Service expenditures to determine the financial impact of implementing policy alternatives and evaluating the cost effectiveness of Managed Care and PACE.

2. Institutional Reimbursement Unit. This unit is divided into the following groups:

A. Outpatient and Federally Qualified Health Center (FQHC)/Rural Health Clinic (RHC) Reimbursements. This group is responsible for audit of the FQHC and independent RHC cost reports, the calculation of final settlements for Outpatient Hospitals, FQHCs and RHCs, the calculation of MC+ interim payment adjustments for FQHCs and RHCs, the calculation of outlier payments for hospitals and the calculation of the prospective outpatient payment rates for outpatient hospital services. The group is also responsible for the administration of state regulations, state plan amendments, and responses to inquiries regarding reimbursement issues.

B. Nursing Home Policy and Reimbursement. This group is responsible for determining and carrying out the policy and reimbursement functions of the Medicaid program for nursing facilities. This includes auditing rate setting cost reports and determining reimbursement rates, auditing annual cost reports, analyzing nursing facility data, determining and establishing reimbursement methodologies, determining the Nursing Facility Reimbursement Allowance, and representing the division in litigation relating to nursing facility issues. The group is also responsible for the administration of state regulations, state plan

amendments, and responses to inquiries regarding nursing facility reimbursement issues.

C. **Hospital Policy and Reimbursement.** This group is responsible for determining and carrying out the policy and reimbursement function of the Medicaid program for hospitals. This includes the day-to-day activities of hospital reimbursement such as auditing hospital cost reports, determining hospital per diem rates, determining hospital disproportionate share payments, determining Direct Medicaid add-on payments and other special payments, determining Federal Reimbursement Allowance (FRA) provider tax, providing litigation support, conducting FRA program tracking, and hospital rate adjustment requests. The group is also responsible for the administration of state regulations, state plan amendments, and responses to inquiries regarding hospital reimbursement issues.

3. **Budget.** This unit is responsible for developing and tracking the division's annual budget request and subsequent appropriations. The unit is responsible for preparation of quarterly estimates and expenditure reports required by the Centers for Medicare and Medicaid Services. During the legislative session, the unit is also responsible for reviewing all bills affecting the division, preparing fiscal notes, and attending hearings as assigned.

4. **Financial Services.** This unit is responsible for managing the financial procedures and reporting of the Medicaid claims processing system, creating expenditure reports for management and budget purposes, coordinating the production and mailing of provider remittance advices, checks and automatic deposits, and reviewing and approving provider 1099 information. The unit is also responsible for processing adjustments to Medicaid claims, receiving and depositing payments, and managing provider account receivables.

5. **Premium Collections.** This unit is responsible for managing the lock box, automatic withdrawals, and cash deposits for the State Children's Health Insurance Program premium cases and Spenddown pay-in cases. The unit manages the financial procedures and reporting for these programs in the state's computer system and in the Medicaid Management Information System (MMIS) to ensure the collection accurately establishes the Medicaid eligibility record and to ensure that client notices are accurate and timely.

6. **Revenue Maximization.** This unit is responsible for the identification and collection of revenue sources to displace general revenue. The unit is responsible for the collection of the Federal Reimbursement Allowance and the Nursing Facility Reimbursement Allowance provider taxes and reconciliation of the fund balances. The unit computes the hospital and nursing facility Upper Payment Limit used to generate additional funds through the Intergovernmental Transfer (IGT) programs. The unit is also the primary source for bill review and fiscal note analysis related to institutional reimbursement.

(D) The Information Services section is divided into the following units:

1. **Payment Systems.** This unit is responsible for coordinating and implementing the more advanced modifications to the Medicaid Management Information System (MMIS). The implementation of the requirements of the Health Insurance Portability and Accountability Act (HIPAA) is an example of an advanced modification to the MMIS. The unit ensures that a structured approach is used so as not to disrupt any of the automated Medicaid claims processing and the information retrieval system currently in place.

2. **Medicaid Management Information System.** This unit is responsible for oversight and monitoring of the fiscal agent (Infocrossing Healthcare Services, Inc.) contract and acts as liaison between the division and Infocrossing. The unit is responsible for maintaining the claims processing system by reviewing claims payment issues, establishing corrective action plans and

designating specific tasks to Infocrossing. This unit is also responsible for processing ad hoc requests from other units within the division.

3. **Provider Enrollment.** This unit is responsible for enrolling and disenrolling providers. The unit maintains all updates and changes to the provider enrollment files and processes direct deposit applications. The unit responds to provider inquiries and notifies providers when their application is processed and when a provider number is issued. The unit is also responsible for entering rate changes for providers and developing a system whereby much of the provider enrollment process can be completed electronically.

4. **Program Integrity Unit.** This unit is primarily responsible for monitoring statewide utilization and program compliance of Medicaid Fee-For-Service providers and recipients. The unit conducts post-payment audits/reviews and researches complaints. Following an audit/review, the unit may, among other actions: issue educational letters; recover improperly paid funds; refer cases of suspected fraudulent activities to the Attorney General's Medicaid Fraud Control Unit or other appropriate licensing bodies; request a corrective action plan; and/or recommend internal policy changes to improve and/or clarify program policy. Other responsibilities of the unit include, but are not limited to, the Recipient Lock-In Program and monitoring the Medstat Fraud and Abuse Detection System.

(E) The Program Management section is divided into the following units:

1. **Managed Care.** This unit is responsible for administration of the MC+ Managed Care Program which operates under a 1915(b) Freedom of Choice Waiver. This program provides Medicaid Managed Care services to recipients in four (4) broad groups: Medical Assistance for Families, Medicaid for Children, Medicaid for Pregnant Women, and children in state custody. This unit is also responsible for developing new policies and procedures for the MC+ Managed Care Program. This unit is divided into the following groups:

A. **Managed Care Contract Compliance.** This group is responsible for monitoring contracts. Staff monitor the Managed Care contracts to ensure providers are adhering to the terms and conditions of their agreements. The group ensures that the Managed Care Organizations (MCOs) adhere to service access guidelines, verify provider networks, and handle complaints against MCOs. The group also works with the Department of Insurance to assure MCOs are in compliance with state insurance rules and regulations.

B. **Quality Assessment.** This group performs research and data analysis to address monitoring and oversight requirements established by the Centers for Medicare and Medicaid Services. The group utilizes a collaborative process to develop and implement strategies to improve the health status of Medicaid recipients. This process entails coordination with advisory groups, other state agencies, managed care organizations, providers, and the public. The group is also responsible for researching, assessing, evaluating, and reporting information regarding the quality of care provided to MC+ Managed Care members and Fee-For-Service recipients.

2. **Program Relations.** The unit is divided into the following groups:

A. **Provider Education.** This group is responsible for training and educating providers on the division's policies and procedures. The group also assists providers with the submission of Medicaid claims through provider workshops and individual provider training sessions.

B. **Provider Communication.** This group is responsible for responding to provider inquiries and concerns. Much of this communication is handled via a provider hotline. Written responses to provider inquiries are also handled by this group. The group interprets and explains difficult and complex

Medicaid rules, regulations, policies, and procedures to providers.

C. Recipient Services. This group aids the fiscal agent's Recipient Services Unit by acting as liaison with other groups within the division and handling more complex inquiries from recipients. The division maintains a toll-free hotline for recipients and is responsible for the Medicaid Recipient Reimbursement program and handles all prior authorizations of out-of-state services.

D. Premium Collections. This group is responsible for answering phones and correspondence regarding the State Children's Health Insurance Program premium cases and Spenddown pay-in cases. Staff explain program rules and answer questions regarding receipt of payments.

3. Fee-For-Service Program. This unit is responsible for research, analysis, development, implementation, and monitoring various benefit programs within the division, including the prior authorization process for approval of medically necessary items and services which are not typically reimbursed by Medicaid. Staff in this unit also interact with advisory committees to obtain guidance in complicated health care issues, coordinate and assist in the development of training packages, write and revise program manuals and bulletins pertaining to program policy, procedure and operations, and monitor and evaluate program effectiveness by tracking utilization patterns.

A. Program Development. This group is responsible for researching state and federal regulations, Centers for Medicare and Medicaid Services directives and rulings, and reviewing Medicaid programs implemented by other states. The group analyzes data and legislation, coordinates special projects, and works with other state agencies and groups within the division to implement new Medicaid programs including the development of new manuals and procedures. Staff in this group also aid in the implementation of major changes to existing Medicaid programs.

(F) The Pharmacy and Clinical Services section is divided into the following units:

1. Pharmacy Exceptions. This unit operates a toll-free hotline for providers to request overrides on drug products with restricted access due to clinical or fiscal edits and prior authorization. The hotline staff in this unit operate an Internet-based system to process requests for drug products which have been denied through the usual claims processing system. This unit is also responsible for responding to requests for certain prior authorized services, such as insulin pumps and supplies, as well as those through the Exception Process for essential medical items or services which are not typically reimbursed through the Medicaid program.

2. Pharmacy Enhancement (Fiscal). This unit is responsible for performing fiscal analyses on proposed cost-containment initiatives, maintaining existing reporting systems, overseeing payments for contracted services, and tracking fiscal data for the program. It assists in the preparation of fiscal notes, budget preparation, and bill reviews on pharmacy related issues. In addition, the unit is responsible for administering the pharmacy tax program and nursing facility returns. This unit is also responsible for the collection of rebates from pharmaceutical manufacturers contracted with Centers for Medicare and Medicaid Services to participate in the federal Drug Rebate Program, and for collection of supplemental rebates from manufacturers participating in the state's Supplemental Rebate Program. Manufacturers are invoiced quarterly by the unit for products dispensed during the period. As payments are received, disputes are identified and the unit researches any product disputed by the manufacturer. Disputes are resolved with the manufacturer to collect the greatest rebate possible. This unit is also responsible for collecting rebates for the Missouri Rx Program. The federal and state rebate programs operate in much the same way.

3. Pharmacy Enhancement (Clinical). This unit is responsible for the implementation and maintenance of clinical pharmacy cost saving initiatives. This unit is responsible for the review, implementation and maintenance of the Preferred Drug List (PDL). It also oversees the prior authorization of all new drug products and conducts drug pricing research. All clinical drug information and pharmacoeconomic evidence-based reviews are organized for presentation to the Drug Prior Authorization Committee and the Drug Use Review Board (DUR). Online point of sale clinical edits are established to assure cost effective and appropriate drug usage, and override requests for medically necessary over-the-counter drugs or non-reference diabetic supplies are reviewed. This unit provides manual pricing for certain exceptions claims, assists providers with exceptions claim inquiries, and updates spreadsheets for reference by the Exceptions Unit help desk. Provider education is provided for the Medicaid pharmacy program as well as for Medicare D and Missouri Rx claims inquiries. Emergency overrides are reviewed for patients unable to access benefits through Medicare D. This unit updates the listing of drug products on the Maximum Acquisition Cost (MAC)/Federal Upper Limit (FUL) lists. In addition, pharmacy prior authorizations are reviewed for recipients enrolled in Hospice to determine whether the medication is related to the terminal illness. Internal clinical management and coordination of care for Fee-For-Service patients is performed, including identification and monitoring of drug regimens outside normal parameters, and working with patients' healthcare providers to reach desired outcomes.

4. Program Operations and Policy. This unit is responsible for policy implementation, program communications, oversight of contracts with outside vendors for pharmacy and certain clinical program enhancement activities, and implementation of those program enhancements. Program and policy documents such as state plan amendments and state regulations are drafted to reflect program changes. Provider bulletins and announcements are posted on the Internet and program manuals are updated. This unit researches and gathers information for program development, and provides procedural support for systems changes and claims processing issues such as behavioral health prior authorization, medical procedures and equipment prior authorization, and durable medical equipment special pricing and rebates. This unit serves as the liaison with MMIS and other units within the division to facilitate program enhancement activities. Special retrospective audits are conducted to detect incorrect billings, make appropriate claims adjustments, and provide billing education. In addition, the unit provides administrative support for the Drug Use Review (DUR) Board and Regional DUR Committee, as well as assistance with enrolling providers in the Disease Management Program.

5. Missouri Rx Plan. This unit is responsible for the ongoing operations of the Missouri Rx Plan, which provides certain pharmaceutical benefits to certain elderly and disabled residents of the state, facilitates coordination of benefits between the Missouri Rx Plan and the federal Medicare D drug benefit program established by the Medicare Modernization Act of 2003, and enrolls such individuals into the plan. This unit also facilitates the Missouri Rx Plan Advisory Commission, with members including the lieutenant governor and members of the legislature, which is tasked with providing advice on guidelines, policies, and procedures necessary to establish the Missouri Rx Plan, educating Missouri residents on quality prescription drug programs and cost-containment strategies in medication therapy; and assisting Missouri residents in enrolling or accessing prescription drug assistance programs for which they are eligible. As a component of these duties, this unit oversees the production, maintenance, and regular updates of an Internet listing of prescription drug cost information for easy access by all members of the public.

6. Psychology Program. This unit is responsible for the implementation and maintenance of the Psychology/Counseling Program. This unit oversees the prior authorization of psychological services as required for enrolled populations. Clinical guidelines are reviewed by the Medicaid Non-Pharmaceutical Mental Health Services Prior Authorization Advisory Committee for clinical recommendations and input. The unit is also responsible for policy implementation, program communications, and consultation with provider education activities regarding psychological services. Consultation with the Program Operations and Policy Unit insures policy documents such as bulletins, state plan amendments and state regulations are drafted to reflect program changes. Quality Improvement reviews of provider practice patterns and patient utilization are conducted to insure best practice approaches are implemented. Clinical oversight and consultation based upon evidence based approaches is offered to other state agencies and units, as well as professional boards and organizations.

AUTHORITY: section 208.201, RSMo [Supp. 1987] 2000. This rule was previously filed as 13 CSR 40-81.005. Emergency rule filed Sept. 15, 1987, effective Sept. 28, 1987, expired Jan. 25, 1988. Original rule filed Oct. 1, 1987, effective Jan. 29, 1988. Amended: Filed July 2, 1992, effective Feb. 26, 1993. Amended: Filed April 14, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 11—Control and Management of Insurance
Companies**

PROPOSED AMENDMENT

20 CSR 200-11.101 Insurance Holding Company System Regulation with Reporting Forms and Instructions. The director is amending Item 3 and Item 3(e) of Form A.

PURPOSE: This amendment changes the method applicants use to provide certain identity and background information associated with them when filing a Form A by requiring the submission of a character report.

(18) Pre-Acquisition Notification. If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to the provisions of section 382.040 of the Act and is required by such section to file a pre-acquisition notification, that person shall file a pre-acquisition notification form, Form E, which was developed pursuant to section 382.095.3 of the Act. Additionally, if a non-domiciliary insurer licensed to do business in this state is proposing a merger or acquisition pursuant to section 382.095 of the Act, that person shall file a pre-acquisition notification

form, Form E. No pre-acquisition notification form need be filed if the acquisition is beyond the scope of section 382.095 as set forth in section 382.095.2(1)–(7). In addition to the information required by Form E, the director may wish to require an expert opinion as to the competitive impact of the proposed acquisition.

FORM A

**Statement Regarding the Acquisition
of Control of or Merger
with a Domestic Insurer**

(Name of Domestic Insurer)

by

(Name of Acquiring Person (Applicant))

Filed with the Insurance Department of

(State of domicile of insurer being acquired)

Dated: _____, _____

Name, title, address and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

Item 1. Insurer and Method of Acquisition.

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

Item 2. Identity and Background of the Applicant.

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past five (5) years or for lesser period as the applicant person and any of its predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or list clearly presenting the identities of the interrelationships among the applicant and all affiliates of the applicant. No affiliate need be identified if its total assets are equal to less than one-half (1/2) of one percent (1%) of the total assets of the ultimate controlling person affiliated with the applicant. Indicate in the chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (for example, corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, and set forth the title of the court, nature of proceedings and the date when commenced.

Item 3. Identity and Background of Individuals Associated With the Applicant.

State, or with respect to (e) have provided to the department, the following with respect to—1) the applicant if s/he is an individual or 2) all persons who are directors, executive officers or owners of ten percent (10%) or more of the voting securities of the applicant if the applicant is not an individual:

(a) Name and business address;

(b) Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which the employment is carried on;

(c) Material occupations, positions, offices or employment during the last five (5) years, giving the starting and ending dates of each and the name, principal business and address of any business operation or other corporation in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of the licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection with the licensing or registration;

(d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten (10) years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case;

(e) *[Date of birth, place of birth and Social Security number. Disclosure of the Social Security number: (1) is optional; (2) is solicited pursuant to the director's statutory authority to investigate and determine the competence, experience and integrity of those persons who would control the operation of the insurer pursuant to section 382.060.1(5), RSMo, and to inquire into and investigate the business of insurance transacted in this state pursuant to section 374.190.1, RSMo; and (3) will be used to conduct a criminal background check of the individual providing the Social Security number. The Department of Insurance will maintain the Social Security number as confidential pursuant to section 610.035, RSMo, if the Social Security number(s) is (are) provided to the department on a separate paper (along with the individual's name) from other information provided under this item; if not provided on a separate paper, the Department may deem the holder to have authorized disclosure of the Social Security number]* **A business character report from Owens Online, Inc., or such other character report from such other independent third party as the director approves in writing with respect to the specific Form A.**

Item 4. Nature, Source and Amount of Consideration.

(a) Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading securities, furnish a description of the transaction, the names of the parties to the transaction, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed and copies of all agreements, promissory notes and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, s/he must specifically request that the identity be kept confidential.

Item 5. Future Plans of Insurer.

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate such insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

Item 6. Voting Securities to be Acquired.

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3, plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

Item 7. Ownership of Voting Securities.

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

Item 8. Contracts, Arrangements or Understanding With Respect to Voting Securities of the Insurer.

Give the full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3., is involved, including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. This description shall identify the persons with whom the contracts, arrangements or understandings have been entered into.

Item 9. Recent Purchases of Voting Securities.

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3. during the twelve (12) calendar months preceding the filing of this statement. Include in such description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid. State whether any shares so purchased are hypothecated.

Item 10. Recent Recommendations to Purchase.

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3., or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3. during the twelve (12) calendar months preceding the filing of this statement.

Item 11. Agreements With Broker-Dealers.

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commission or other compensation to be paid to broker-dealers with regard thereto.

Item 12. Financial Statements and Exhibits.

(a) Attach financial statements and exhibits to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the person identified in Item 2(c) for the preceding five (5) fiscal years (or for a lesser period as the applicant and its affiliates and any predecessors of the applicant shall have been in existence), and similar information covering the period from the end of the person's last fiscal year, if this information is available. These statements may be prepared on either an individual basis or, unless the director otherwise requires, on a consolidated basis if consolidated statements are prepared in the usual course of business.

(c) The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that the statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of such person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(d) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two (2) fiscal years, and any additional documents or papers required by Form A or 20 CSR 200-11.101(2) and (4).

Item 13. Signature and Certification.
Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of sections 382.040-382.060 of the Act _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____, on the _____ day of _____, _____.

(SEAL)

(Name of Applicant)

by

(Name)

(Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that s/he has duly executed the attached application dated _____, _____, for and on behalf of _____;
(Name of Applicant)

that s/he is the _____ of _____;
(Title of Officer)

(Name of Company)

and that s/he is authorized to execute and file such instrument. Deponent further says that s/he is familiar with such instrument and

the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name)

FORM B

Insurance Holding Company System Annual Registration Statement

Filed with the Insurance Department of the state of _____

by

(Name of Registrant)

On behalf of following insurance companies:

Name

Address

Date _____, _____.

Name, title, address and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

Item 1. Identity and Control of Registrant.

Furnish the exact name of each insurer registering or being registered (after this called the registrant), the home office address and principal executive offices of each; the date on which each registrant became part of the insurance holding company system; and the method(s) by which control of each registrant was acquired and is maintained.

Item 2. Organizational Chart.

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons with the insurance holding company system. No affiliate need be shown its total assets are equal to less than one-half (1/2) of one percent (1%) of the total assets of the ultimate controlling person within the insurance holding company system unless it has assets valued at or exceeding (insert amount). The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of the control. As to each person specified or listing indicate the type of organization (for example, corporation, trust, partnership) and the state or other jurisdiction of domicile.

Item 3. The Ultimate Controlling Person.

As to the ultimate controlling person in the insurance holding company system, furnish the following information:

(a) Name;

- (b) Home office address;
- (c) Principal executive office address;
- (d) The organizational structure of the person, that is, corporation, partnership, individual, trust, etc;
- (e) The principal business of the person;
- (f) The name and address of any person who holds or owns ten percent (10%) or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned; and
- (g) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

Item 4. Biographical Information.

Furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name and address, his/her principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years.

Item 5. Transactions and Agreements.

Briefly describe the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the registrant and its affiliates:

- (a) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the registrant or of the registrant by its affiliates;
- (b) Purchases, sales or exchanges of assets;
- (c) Transactions not in the ordinary course of business;
- (d) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the registrant's business;
- (e) All management agreements, service contracts, tax allocation arrangements, and cost-sharing arrangements;
- (f) Reinsurance agreements;
- (g) Dividends and other distributions to shareholders;
- (h) Consolidation tax allocation agreements; and
- (i) Any pledge of the registrant's stock, the stock of any subsidiary or controlling affiliate, or both, for a loan made to any member of the insurance holding company system.

No information need be disclosed if such information is not material for purposes of sections 382.100-382.160 of the Act.

Sales, purchases, exchanges, loans or extension of credit, investments or guarantees involving one-half (1/2) of one percent (1%) of the registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material. (Note: the director by rule or order may provide otherwise.)

The description shall be in a manner as to permit the proper evaluation by the director, and shall include at least the following: the nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to such transaction, and relationship of the affiliated parties to the registrant.

Item 6. Litigation or Administrative Proceedings.

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which the litigation or proceeding is or was pending:

- (a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party to the prosecutions or proceedings; and

- (b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

Item 7. Statement Regarding Plan or Series of Transactions.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

Item 8. Financial Statements and Exhibits.

(a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statement shall include the annual financial statements of the ultimate controlling person in the holding company system as of the end of the person's latest fiscal year.

(c) If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. These financial statements may be prepared on either an individual basis, or unless the director otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

(d) Unless the director otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that these statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the annual statement of such insurer filed with the insurance department of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(e) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy materials used by the ultimate controlling person; and any additional documents or papers required by Form B or 20 CSR 200-11.101(2) and (4).

Item 9. Form C Required.

A Form C, Summary of Registration Statement, must be prepared and filed with this Form B.

Item 10. Signature and Certification.

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of sections 382.100-382.160 of the Act, the Registrant has caused this annual registration statement to be duly signed on its behalf in the City of _____ and the

State of _____ on the _____ day

of _____, _____.

(SEAL)

(Name of Registrant)

by

(Name)

(Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that s/he has duly executed the attached annual registration statement dated _____, _____, for and on behalf of _____;
(Name of Officer)

that s/he is the _____ of
(Title of Officer)

(Name of Company)

and that s/he is authorized to execute and file such instrument. Deponent further says that s/he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name)

FORM C

Summary of Registration

STATEMENT

Filed with the Insurance Department of the State of

by

(Name of Registrant)

On behalf of following insurance companies:

Name	Address
_____	_____
_____	_____
_____	_____

Date _____

Name, title, address and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description shall be in a manner as to permit proper evaluation by the director, and shall include specific references to Item numbers in the annual registration statement and to the terms contained in the statement.

Changes occurring under Item 2. of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of ten percent (10%) or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4. of Form B need only be included where—an individual is, for the next time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his/her responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of this change shall be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.

SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of sections 382.100–382.160 of the Act, the Registrant has caused this summary of registration statement to be duly signed on its behalf in the City of _____ and the State of _____ on the _____ day of _____, _____.

(SEAL)

(Name of Registrant)

by

(Name)

(Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that s/he has duly executed the attached summary of registration statement dated _____, _____,

for and on behalf of _____
(Name of Officer)

that s/he is the _____
(Title of Officer)

of _____
(Name of Company)

that s/he is authorized to execute and file such instrument. Deponent further says that s/he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

FORM D

Prior Notice of a Transaction

Filed with the Insurance Department of the State of _____

by _____
(Name of Registrant)

On behalf of the following insurance companies:
Name _____ Address _____

Date: _____, _____

Name, title, address and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

Item 1. Identity of Parties to Transaction.
Furnish the following information for each of the parties to the transaction:

- (a) Name;
- (b) Home office address;
- (c) Principal executive;
- (d) The organizational structure, that is, corporation, partnership, individual, trust, etc;
- (e) A description of the nature of the parties' business operations;
- (f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties; and
- (g) Where the transaction is with a nonaffiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

Item 2. Description of the Transaction.
Furnish the following information for each transaction for which notice is being given:

- (a) A statement as to whether notice is being given under section 382.195.1(1), (2), (3), (4) or (5) of the Act;
- (b) A statement of the nature of the transaction; and
- (c) The proposed effective date of the transaction.

Item 3. Sales, Purchases, Exchanges, Loans, Extensions of Credit, Guarantees or Investments.

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of these investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the maximum amount which at any time can be outstanding or for which the insurer can be legally obligated under the loan, extension of credit or guarantee is less than—

- (a) In the case of nonlife insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders; or
- (b) In the case of life insurers, three percent (3%) of the insurer's admitted assets, each as of the 31st day of December next preceding.

Item 4. Loans or Extensions of Credit to a Nonaffiliate.

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding where the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making these loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of nonlife insurer's, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders or, with respect to life insurers, three percent (3%) of the insurer's admitted assets, each as of the 31st day of December next preceding.

Item 5. Reinsurance.

If the transaction is a reinsurance agreement or modification to it, as described by section 382.195.1(3) of the Act, furnish a description of the known, estimated amount of liability or else to be ceded, or both assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and nonaffiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one (1) or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and brief statement as to the effect of the transaction, upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications to them if the reinsurance premium or a change in the insurer's liabilities in connection with the reinsurance agreement or modification to it is less than five percent (5%) of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding.

Item 6. Management Agreements, Service Agreements, Tax Allocation Arrangements, and Cost-Sharing Arrangements.

For management and service agreements, furnish—

(a) A brief description of the managerial responsibilities, or services to be performed; and

(b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made;

For tax allocation arrangements and cost-sharing arrangements, furnish—

(a) A brief description of the purpose of the agreement;

(b) A description of the period of time during which the agreement is to be in effect;

(c) A brief description of each party's expenses or costs covered by the agreement; and

(d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement.

Item 7. Signature and Certification.

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of section 382.195 of the Act _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, _____.

(SEAL)

(Name of Applicant)

by

(Name)

(Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that s/he has duly executed the attached notice dated _____, _____, for and on behalf of _____;
(Name of Officer)

that s/he is the _____
(Title of Officer)

of _____
(Name of Company)

and that s/he is authorized to execute and file such instrument. Deponent further says that s/he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name)

FORM E

**Pre-Acquisition Notification Form
Regarding The Potential Competitive Impact
of a Proposed Merger or Acquisition by a
Non-Domiciliary Insurer Doing Business in this
State or by a Domestic Insurer**

(Name of Applicant)

(Name of Other Person Involved in Merger or Acquisition)

Filed with the Insurance Department of the State of _____ by _____

(Name of Registrant)

Name, title, address and telephone number of person completing this statement:

Item 1. Name and Address.

State the names and addresses of the persons who hereby provide notice of their involvement in a pending acquisition or change in corporate control.

Item 2. Name and Addresses of Affiliated Companies.

State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.

Item 3. Nature and Purpose of The Proposed Merger or Acquisition.

State the nature and purpose of the proposed merger or acquisition.

Item 4. Nature of Business.

State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.

Item 5. Market and Market Share.

State specifically what market and market share in each relevant insurance market the persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past five (5) years and identify the source of such data.

For purposes of this question, market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state.

AUTHORITY: sections 374.045 and 382.240, RSMo 2000. Original rule filed April 29, 1992, effective Dec. 3, 1992. Amended: Filed Nov. 23, 1998, effective July 30, 1999. Amended: Filed June 14, 2001, effective Dec. 30, 2001. Amended: Filed April 17, 2006.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities fifty thousand four hundred dollars (\$50,400) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on June 20, 2006. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested persons. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment until 5:00 p.m. on June 20, 2006. Written statements shall be sent to Kevin Hall, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	20 CSR 200-11.101, Insurance Holding Company System Regulation with Reporting Forms and Instructions
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
4	Applicants seeking to acquire control of a Missouri domestic insurance company	\$50,400 annually

III. WORKSHEET

Median number of Form A applications received during a calendar year over the past three full calendar years = 4

Average number of persons required by proposed amendment to submit a third party character report for each Form A = 15

Average cost for each business character report (based on recent invoices) = \$840.00

$4 \times 15 \times \$840 = \$50,400.00$

IV. ASSUMPTIONS

The median number of Form A applications, the average number of persons required to submit a third party character report, and the average cost of each business character report are assumed to remain constant, at least in terms of present value.

The proposed amendment does not have a sunset clause. Accordingly, the fiscal impact of the proposed amendment cannot be estimated on an aggregate basis. An estimate of the annual fiscal impact is provided instead.

The proposed amendment will affect only persons seeking to acquire Missouri domestic insurance companies. The Department's experience is that such persons do not qualify as small businesses. Accordingly, the proposed amendment imposes costs on certain private entities, but not on small businesses.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 20—Method of Sale for Products**

ORDER OF RULEMAKING

By the authority vested in the Department of Agriculture under section 413.065, RSMo Supp. 2005, the director amends a rule as follows:

2 CSR 90-20.040 *NIST Handbook 130*, “Uniform Regulations for the Method of Sale of Commodities” is **amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 17, 2006 (31 MoReg 98). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 22—Packaging and Labeling**

ORDER OF RULEMAKING

By the authority vested in the Department of Agriculture under section 413.065, RSMo Supp. 2005, the director amends a rule as follows:

2 CSR 90-22.140 *NIST Handbook 130*, “Uniform Packaging and Labeling Regulation” is **amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 17, 2006 (31 MoReg 98–99). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 23—Inspection of Packaged Commodities**

ORDER OF RULEMAKING

By the authority vested in the Department of Agriculture under section 413.065, RSMo Supp. 2005, the director amends a rule as follows:

2 CSR 90-23.010 *NIST Handbook 133*, Technical Procedures and Methods for Measuring and Inspecting Packages or Amounts of Commodities is **amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 17, 2006 (31 MoReg 99). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 25—Price Verification**

ORDER OF RULEMAKING

By the authority vested in the Department of Agriculture under section 413.065, RSMo Supp. 2005, the director amends a rule as follows:

2 CSR 90-25.010 Price Verification Procedures is **amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 17, 2006 (31 MoReg 99–100). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 5—Wildlife Code: Permits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission adopts a rule as follows:

3 CSR 10-5.331 Resident National Guard and Reserve Service Small Game Hunting and Fishing Permit is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2006 (31 MoReg 374-375). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Conservation received four (4) comments regarding this proposed rule.

COMMENTS: Jeremy Amick with the Military Benefits Program requested the deployment time be extended beyond the twelve (12) months listed in the rule and requested exemption from hunter education certification for members of the military. Bob Johnson, Gilliam, MO, requested this benefit be extended to all military veterans. Brian Graves, Springfield, thanked the department for implementing this new permit. Charles and Tracy Howell requested the privileges be extended to all active duty military personnel.

RESPONSE: Department of Conservation staff responded to all who commented. While we appreciate their comments and views, satisfying everyone's personal preference for a military permit cannot be accomplished. Therefore, the department made no changes to this rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 1—Organization

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under sections 327.041, RSMo Supp. 2005 and 327.051.4, RSMo 2000, the board amends a rule as follows:

4 CSR 30-1.020 Board Compensation is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 7-8). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 2—Code of Professional Conduct

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under section 327.041, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 30-2.010 Code of Professional Conduct is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3,

2006 (31 MoReg 8-9). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 4—Applications

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under section 327.041, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 30-4.050 Criteria to File Application Under 327.391, RSMo is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 9-10). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 5—Examinations

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under section 327.041, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 30-5.020 NCARB Examinations—Architects is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 10). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 5—Examinations

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape

Architects under section 327.041, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 30-5.070 NCEES Examinations—Engineers is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 10–11). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 6—Fees**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under section 327.041, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 30-6.020 Reexamination Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 13). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 7—Nonresidents**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under section 327.041, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 30-7.010 Nonresidents is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 13). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 11—Renewals**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under sections 327.011, 327.041 and 327.621, RSMo Supp. 2005 and 327.171, 327.261 and 327.351, RSMo 2000, the board amends a rule as follows:

4 CSR 30-11.010 Renewal Period is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 13–14). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 13—Supervision**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under sections 327.011, 327.041 and 327.621, RSMo Supp. 2005 and 327.171, 327.261 and 327.351, RSMo 2000, the board amends a rule as follows:

4 CSR 30-13.010 Immediate Personal Supervision is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 14–15). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

**Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 13—Supervision**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape

Architects under section 327.041, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 30-13.020 Immediate Personal Supervision for Professional Land Surveyors **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 15-16). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 14—Definitions

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under sections 327.041, RSMo Supp. 2005 and 327.312, RSMo 2000, the board amends a rule as follows:

4 CSR 30-14.020 Definition of Baccalaureate Degree From Approved Curriculum as Used in Section 327.312.1(1), RSMo **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 16). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 17—United States Public Land Survey Corners

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under section 327.041, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 30-17.010 Definitions **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 16). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 18—First and Second Order Horizontal and Vertical Control

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under section 327.041, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 30-18.010 Definitions **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 16). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 19—Standards for Surveyor's Real Property Report

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under section 327.041, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 30-19.010 Surveyor's Real Property Report **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 16-17). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects
Chapter 20—Mapping Survey Standards

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects under section 327.041, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 30-20.010 Definitions **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 17). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under sections 334.125, RSMo 2000 and 334.530 and 334.550, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 150-3.010 Applicants for Licensure as Professional Physical Therapists **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2006 (31 MoReg 208–209). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under sections 334.125, RSMo 2000 and 334.530 and 334.550, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 150-3.030 Examination **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2006 (31 MoReg 209–210). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under sections 334.125, RSMo 2000 and 334.530,

334.540 and 334.550, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 150-3.050 Temporary Licenses **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2006 (31 MoReg 210). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under sections 334.125, 334.650 and 334.670, RSMo 2000 and 334.655, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 150-3.110 Physical Therapist Assistant Requirements for Licensing by Examination **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2006 (31 MoReg 210–211). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 150—State Board of Registration for the
Healing Arts
Chapter 3—Licensing of Physical Therapists and
Physical Therapist Assistants**

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under sections 334.125, 334.650 and 334.670, RSMo 2000 and 334.665, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 150-3.150 Physical Therapist Assistant Temporary Licensure **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2006 (31 MoReg 211–212). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 205—Missouri Board of Occupational
Therapy
Chapter 5—Continuing Competency Requirements**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Occupational Therapy under sections 324.065 and 324.080, RSMo 2000 and 324.086, RSMo Supp. 2005, the board amends a rule as follows:

**4 CSR 205-5.010 Continuing Competency Requirements
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 17-19). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Two (2) comments were received.

COMMENT: The board received a comment from Karen Smith, The American Occupational Therapy Association, Inc., in support of the amendments to section (7) which contains the acceptable types of continuing competency activities. The association also suggested the same changes for External Self-Study Series learning activities. These in-depth courses include a post-test very similar to the Online Courses except that one (1) is computer-based and one (1) is paper-based. Both allow the learner to learn at their own pace and review materials as often as needed, as well as choose courses developed by noted authors/presenters based on content and interest rather than geographic proximity, date or other factors unrelated to learning. The current category for External Self-Study Series limits continuing competency credits (CCC) to ten (10) per cycle. In keeping with the board's recommendation to acknowledge shifts in learning methods, we request that the board also allow a maximum of twenty-four (24) CCCs for External Self-Study Series learning activities.

RESPONSE: Pursuant to 4 CSR 205-5.010 an individual is able to obtain all twenty-four (24) continuing competency credits by completing External Self-Study Series. Therefore, no change was made to the text of the rule.

COMMENT: The board received a comment from Carol Ponciroli, Missouri Occupational Therapy Association in support of the comment received from Karen Smith, The American Occupational Therapy Association, Inc.

RESPONSE: Pursuant to 4 CSR 205-5.010 an individual is able to obtain all twenty-four (24) continuing competency credits by completing External Self-Study Series. Therefore, no change was made to the text of the rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 210—State Board of Optometry
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the State Board of Optometry under sections 336.080 and 336.160.1, RSMo 2000, the board amends a rule as follows:

4 CSR 210-2.030 License Renewal is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2006 (31 MoReg 212). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 210—State Board of Optometry
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the State Board of Optometry under sections 336.140 and 336.160, RSMo 2000, the board amends a rule as follows:

4 CSR 210-2.070 Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2006 (31 MoReg 212-215). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 232—Missouri State Committee of Interpreters
Chapter 3—Ethical Rules of Conduct**

ORDER OF RULEMAKING

By the authority vested in the Missouri State Committee of Interpreters under sections 209.328.1, RSMo 2000 and 209.285 and 209.334, RSMo. Supp. 2005, the board amends a rule as follows:

4 CSR 232-3.010 General Principles is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 19). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250, 392.451 and 392.470, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.570 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 1, 2005 (30 MoReg 2479-2485). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A hearing was held on January 6, 2006 and January 10, 2006 in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Oral testimony and written comments were received during the comment period regarding proposed rule 4 CSR 240-3.570. The record was held open until January 17, 2006 for additional comments and exhibits. Written comments supporting the rule, opposing the rule, and/or suggesting changes to the rule were received from the Office of the Public Counsel (OPC), the Small Telephone Company Group (STCG), the Missouri Independent Telephone Group (MITG), Alltel Communications, Inc. (Alltel), Spectra Communications Group, LLC d/b/a CenturyTel and CenturyTel of Missouri, LLC (collectively "CenturyTel"), Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri ("AT&T"), the Staff of the Missouri Public Service Commission (staff), and USCOC of Greater Missouri, LLC d/b/a U.S. Cellular (USC).

COMMENT: Alltel and USC commented that commission should not adopt the rule as proposed, but rather should adopt the Federal Communications Commission's (FCC's) Eligible Telecommunications Carrier (ETC) rules with limited exceptions.

RESPONSE: The FCC offered its ETC rules as guidelines to state commissions and encouraged state commissions to adopt additional requirements if necessary to analyze whether an ETC designation is in the public interest. No changes have been made to the rule as a result of these comments.

COMMENT: Alltel and staff commented that the commission should require a two (2)-year build-out plan rather than a five (5)-year build-out plan. AT&T commented that a five (5)-year network improvement plan should include the detailed requirements adopted by the FCC.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that a two (2)-year build-out plan is sufficient, provided that the carriers are required to submit an updated, rolling two (2)-year build-out plan with their annual certification filing.

COMMENT: Alltel commented that there is no basis for requiring state-specific service quality rules to be applied to ETCs that are not otherwise subject to those rules. USC commented that it would be unreasonably burdensome to require carriers with operations in multiple states to modify network, billing, and training systems to track and report compliance with the proposed rule. USC further commented that the requirement to require alternative local exchange carriers and wireless ETCs to abide by selected provisions of Chapter 32 should be deleted. CenturyTel commented that competitive and wireless ETCs should be required to comply with the same customer service, service quality, and consumer obligations as are required of the regulated incumbent local exchange carriers.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that alternative local exchange carriers and incumbent local exchange carriers are required to abide by Chapter 32. The commission further finds that quality of service requirements should not be imposed on wireless ETCs at this time and will amend the rule accordingly.

COMMENT: Alltel commented that the commission should refrain from applying the Missouri billing rules to ETCs since costly requirements could be a deterrent to potential applicants seeking ETC status in Missouri. USC commented that section (9) regarding bill design should be stricken as redundant since all carriers, including wireless providers, are subject to the FCC's truth-in-billing rules. The STCG commented that the proposed rule should go further and also require the competitive ETCs to comply with Chapter 33,

Service and Billing Practices. The STCG further commented that the competitive ETCs should be regulated on the same basis and to the same extent as the incumbent ETC. CenturyTel commented that competitive and wireless ETCs should be required to comply with the same service and billing obligations in Chapter 33 as are required of the regulated incumbent ETC. Staff commented that this section of the proposed rule requires ETCs to comply with state and federal billing requirements. Staff suggested the clause "and shall not represent that the carrier's discretionary cost recovery fees are taxes or government fees" be removed since this concept is incorporated in existing state and federal rules.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the proposed rule simply requires ETCs to comply with existing state and federal rules and does not impose any additional state-specific requirements on carriers. The commission also finds that it will remove the clause "and shall not represent that the carrier's discretionary cost recovery fees are taxes or government fees" as suggested by the staff.

COMMENT: AT&T commented that the commission should add a new subsection (2)(F) to specifically require that an ETC applicant must demonstrate that the commission's grant of the request for ETC designation would be consistent with the public interest, convenience and necessity. The staff supported this suggested change in testimony at the public hearing.

RESPONSE AND EXPLANATION OF CHANGE: The commission concurs and finds that this clarification should be added since a public interest determination is a key component to the granting of ETC designation.

COMMENT: AT&T commented that the commission should modify section (7) and subsection (24)(F) to require that the applicant acknowledge that the FCC may require them to provide equal access in the event that no other ETC is providing equal access within the service area. USC commented that the proposed rule is unclear on when a competitive ETC may be required to provide equal access to interexchange carriers. USC also commented that the equal access requirement appears to be unlawful because a wireless providers' obligation to provide equal access requires an FCC finding that subscribers are denied access to their chosen toll provider and that such denial is contrary to the public interest, convenience and necessity under 47 U.S.C. section 332(c)(8). To remove any confusion, the staff, in a supplemental comment filing, suggested the section be changed to require the applicant to acknowledge that it shall be required to provide equal access consistent with 4 CSR 240-32.100(3) and (4).

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that staff's revisions should be made which clarifies that equal access is only required if order by the commission or the FCC and will modify the rule to alleviate any confusion.

COMMENT: AT&T commented that the commission should add a definition that would specify the meaning of a "reasonable request for service." In testimony, the staff stated it did not oppose this suggested change.

RESPONSE AND EXPLANATION OF CHANGE: The commission concurs and finds that a definition of "reasonable request for service" should be added to the rule.

COMMENT: AT&T commented that the commission should add text that would expressly require further detail regarding the carrier's ability to remain functional in emergency situations. In testimony, the staff stated it did not oppose this suggested change.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the rule should be changed to require further detail regarding emergencies.

COMMENT: Alltel commented that (10)(A)5. was confusing as it seems to require a carrier to provide Phase 2 service even if it has not been requested.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with Alltel's comment and finds the rule should be changed to clarify the requirement exists where the local government agency has implemented enhanced 911 systems.

COMMENT: AT&T commented that subsection (10)(C) should be clarified to delete the suggestion that an ETC's service area can be expanded since the service area is defined by the order granting ETC designation. In testimony, the staff did not oppose this change.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that this suggested change would clarify the rule and will modify the rule accordingly.

COMMENT: AT&T commented that subparagraph (10)(D)2.F. should require the ETC, when responding to an ETC request, to "employ, lease or construct an additional cell site, cell-extender, repeater, or other similar equipment to provide service." In testimony, the staff stated it did not oppose this suggested change.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that this suggested change would improve upon the rule and will modify the rule accordingly.

COMMENT: AT&T commented that the commission should require more detailed information on how many requests for service from potential customers were unfulfilled for the past year.

RESPONSE: The commission finds that this addition is not necessary. No changes have been made to the rule as a result of this comment.

COMMENT: AT&T commented that the commission should modify subsection (24)(F) to require more detailed certifications by the ETCs in the form of an affidavit signed by an officer of the company.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the affidavit requirement should be modified to include additional commitments to comply with the consumer code for wireless service.

COMMENT: The staff commented that the rule should be more competitively neutral throughout by removing references to specific types of carriers where possible and replacing those terms with "ETCs" or "carriers." AT&T and CenturyTel commented that removing references to competitive carriers in an effort to make the rule competitively neutral should not enlarge obligations already held by incumbent local exchange carriers in other chapters of the commission's rules. The MITG commented that if the rule is to apply to incumbent ETCs, further procedures are necessary, including an additional rulemaking and additional hearings. The MITG further commented that it would be inappropriate to apply rules suited for competitive ETCs to incumbent ETCs. The STCG commented that expanding the rule to include incumbent ETCs could violate the published notice and fiscal impact requirements under Chapter 536. Spectra and CenturyTel commented that several reasons exist to not broaden the rule to include incumbent ETCs.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the rule should not be expanded to include new obligations on incumbent ETCs. The commission will modify the rule so that incumbent ETCs are only required to comply with existing ETC requirements already applicable to the incumbent ETCs.

COMMENT: The staff and AT&T commented that subsection (2)(D) should be clarified to indicate that support will be used to cover expenses in addition to expenses normally incurred.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that this suggested change would improve upon the rule and will modify the rule accordingly.

COMMENT: The staff commented that the sections (4) and (5) commitments to provide local usage, Lifeline and Link Up should be clarified.

RESPONSE: The commission agrees and finds that these areas need clarification. The commission will change the rule consistent with the staff's proposed revisions.

COMMENT: The staff commented that section (8) should be modified to provide for future changes to the *CTIA Consumer Code for Wireless Service*.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENT: The staff commented that paragraph (10)(D)4. should be changed to include denied service requests in the ETC's annual certification documentation, rather than in quarterly reports. USC commented that it is unclear why the commission would need quarterly reports of the same information given in the annual certification.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and finds that the rule should be changed to require denied service requests in the annual certification process.

COMMENT: The staff commented that section (17) should be expanded to require a customer service contact in all cases, not just when the carrier uses a third party billing agent.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENT: The staff and USC commented that section (20) be deleted because it would require CMRS carriers to provide certain information not subject to the commission's jurisdiction or related to ETC designation. For consistency with this deletion, the staff also recommends section (21) be removed. USC commented that the use of the term "annual report" in section (20) should be defined. USC also commented that the section (20) reference to "official commission forms with appropriate cross-references" should be clarified.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff and finds that the suggested deletion of sections (20) and (21) would improve the rule and will modify the rule accordingly. This deletion should also satisfy the comments made by USC regarding section (20).

COMMENT: The staff commented that section (22) should be modified to allow carriers to either notify the Telecommunications Department or update the commission's electronic filing system when company contacts change.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENT: The staff commented that the reference to the annual certification process approved in Case No. TO-2002-347 should be removed to avoid any confusion over what process is appropriate.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENT: The staff commented that sections (26) and (28) should be modified for clarification purposes.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENT: The staff commented that the commission should change section (29) to remove the implication that wireless ETCs must seek approval from the commission for a name change.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENT: The staff commented that a new section should be added to require ETCs to assist the staff in comparing residential rates in rural areas served by non-rural incumbent local exchange carriers to urban rates nationwide, as required by 47 CFR section 54.316.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENT: The staff commented that a new section should be added to require all ETCs to comply with all sections of 4 CSR 240-3.570 prior to the October 1, 2006 annual certification date, and to submit a statement as to the ETC's compliance with this rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENT: The staff commented that carriers with pending ETC designation requests should be required to submit information required by this rule within thirty (30) days of the effective date of the rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENT: OPC commented that wireless carriers are not subject to the commission's jurisdiction, but if they are accepting support through ETC status, which is authorized by the commission, then they should abide by certain commission regulations.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that certain of its rules should apply to all carriers designated as ETCs. The commission modifies the rule to clarify that application of ETC status shall be deemed to be acceptance of Missouri commission jurisdiction in matters related to ETC designation, annual certification and acceptance of additional rules applicable to ETCs.

COMMENT: The staff recommended ETCs comply with existing commission consumer complaint processes. USC encourages the commission to proceed cautiously when considering rules that would regulate an ETC as an incumbent local exchange carrier. USC states there are important reasons favoring less regulation of competitive ETCs because competition is a very effective driver of high-quality service, more so than regulations aimed at protecting consumers from monopoly business practices.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that competitive ETCs should not be regulated as incumbents. As such, the commission removes sections (13), (14), (15), (16) and (18) of the proposed rule. Instead, the commission will establish a requirement that competitive ETCs submit a report to the commission as part of the annual certification on any consumer complaints filed with the Federal Communications Commission for which the company has knowledge that are directly related to the Missouri designated ETC service area.

COMMENT: USC commented that the proposed rule consists of wireline regulations being imposed on wireless carriers with no adjustment for technology or consideration of necessity.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the portions of the rule will be modified so that regulations specific to wireline technology will not be imposed upon wireless carriers.

COMMENT: USC commented that the rules should not be adopted if the record has not demonstrated that: 1) existing certification requirements are not adequate; or 2) competitive pressures and federal requirements are not sufficient to ensure CMRS ETCs will provide high-quality service.

RESPONSE: The commission finds that the final rule as published below is fully supported by the comments and testimony received.

COMMENT: USC commented that the commission should revise the rule to eliminate duplicative and inconsistent filing requirements.

RESPONSE: The commission finds that the final rule as published below does not contain duplicative or inconsistent filing requirements.

COMMENT: USC commented that the sections (2) and (24) requirement to spend support only to "improve coverage, service quality or capacity" is inconsistent with federal law at 47 U.S.C. section 254(e), which requires all ETCs to use support on the "provision, maintenance and upgrading" of supported services and facilities. USC also commented that it would not be competitively neutral to impose this requirement on competitive ETCs and not on incumbent ETCs. Spectra and CenturyTel commented that this difference is only an attempt to address technological differences and the way services are provisioned as between wireless and wireline carriers.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that it will not limit the use of Universal Service Fund (USF) support to improve coverage, service quality or capacity. However, as USC notes, the Telecommunications Act states support will only be used for the "provision, maintenance, and upgrading of facilities and services for which the support is intended." Section 254 outlines the principles for the preservation and advancement of universal service, including access in rural and high cost areas. According to 47 U.S.C. 254(b), support is intended such that, "Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications services and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar service in urban areas. Consistent with the Telecommunications Act, the commission finds that it will include a carrier's commitment to improve coverage, service quality or capacity as a part of the commission's public interest analysis, which will also include a demonstration that the support is used for the purpose intended.

COMMENT: USC commented that the informational tariff requirement of sections (12) and (11) could be erroneously interpreted to mean traditional commission tariff review and approval, which is preempted under federal law at 47 U.S.C. section 332(c)(3). USC also commented that a tariff requirement would be burdensome and not in the best interests of consumers. In its written comments, the staff supports the informational filings stating that it is not anticipated that the commission will review and/or approve such filings. The staff also stated that informational filings will only provide the commission and the consumer with a source to access service offering information for all providers designated as ETCs.

RESPONSE: The commission concurs with the comments of the staff and finds that the informational filings will provide the commission and the consumer with a source to access service offering information for all providers designated as ETCs. The commission clarifies that the filings are for informational purposes only and will not be subject to review or approval by the commission. No changes have been made as a result of these comments.

COMMENT: U.S.C. commented that the proposed rule should allow local usage comparability in terms of overall consumer value and any suggestion that local calling scopes or plans must be duplicated by wireless ETCs is contrary to an FCC order. The staff, in its written comments, notes that the intention of this section is not to require wireless and wireline providers to offer identical local usage plans, but to require that they offer plans with similar characteristics. The staff notes that the commission would review compliance with this section of the proposed rule on a case-by-case basis.

RESPONSE: The commission agrees with the staff and finds that the local usage provision is consistent with the FCC's orders. No changes have been made as a result of these comments.

COMMENT: USC commented that the requirement of unlimited local calling for Lifeline subscribers found in paragraph (10)(A)11. is not competitively neutral and not found in the federal regulations. USC further commented that an unlimited local calling requirement is a state action subject to federal preemption.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the requirement for unlimited local calling for Lifeline subscribers should be removed from the rule.

COMMENT: USC commented that the paragraph (10)(A)7. requirement to provide "access to telecommunications relay services by dialing 711" would require a carrier to provide a service not supported by USF. USC further commented that the commission has no authority to expand the federal list of supported services.

RESPONSE: The commission finds that this is a federal requirement in 47 CFR 64.603. No changes have been made as a result of these comments.

COMMENT: The staff commented that certain proposed language could be added to require ETCs to annually meet with the staff to review and discuss the ETC's two (2)-year improvement plan.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and finds that this suggested change would improve the rule and will modify the rule accordingly.

COMMENT: Ms. Barbara Meisenheimer with the OPC testified that information submitted to the commission by ETCs should include sample contracts between the company and the customer.

RESPONSE: The commission finds that the information provided in the two (2)-year plan and in the informational filings is sufficient for commission review of an ETC designation request and annual recertification request. No changes have been made as a result of this comment.

COMMENT: Ms. Barbara Meisenheimer with the OPC testified that a wireless ETC should not be allowed to collect any more as a customer portion of a build out than does the incumbent because they receive exactly the same support money for serving that customer.

RESPONSE: The commission finds that due to the network differences between the wireless and the wireline carriers, the wireless ETCs should not be tightly tied to the practices of the wireline networks. No changes have been made as a result of this comment.

4 CSR 240-3.570 Requirements for Carrier Designation as Eligible Telecommunications Carriers

(1) For purposes of this rule, the following definitions apply.

(C) Eligible telecommunications carrier (ETC) is a carrier designated as such by the Missouri Public Service Commission pursuant to 47 U.S.C. 214(e) in order to receive universal service support. Eligible telecommunications carrier (ETC) shall refer to alternative local exchange carriers and commercial mobile radio service providers and shall not include incumbent local exchange carriers unless otherwise specified.

(E) Reasonable request for service refers to a request for service of a type and quantity that is not in excess of service which is normally requested by like customers and is for service at a location within the carrier's designated service area.

(2) Applications for Designation as an ETC.

(A) Each request for ETC designation shall include:

1. Intended use of the high-cost support, including detailed descriptions of any construction plans with start and end dates, populations affected by construction plans, existing tower site locations for CMRS cell towers, and estimated budget amounts;

2. A two (2)-year plan demonstrating, with specificity, that high-cost universal service support shall only be used for the provision, maintenance and upgrading of facilities and services for which

the support is intended in the Missouri service area in which ETC designation was granted.

A. For purposes of this section, "support is intended" is defined consistent with the Telecommunications Act which outlines the following principles:

(I) Quality and rates—quality services should be available at just, reasonable, and affordable rates;

(II) Access to advanced services—access to advanced telecommunications and information services should be provided in all regions of the state;

(III) Access in rural and high cost areas—consumers in all regions of Missouri, including those in rural, insular and high-cost areas will have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas;

3. The two (2)-year plan shall include a demonstration that universal service support shall be used to improve coverage, service quality or capacity on a wire center-by-wire center basis throughout the Missouri service area for which the requesting carrier seeks ETC designation including:

A. A detailed map of coverage area before and after improvements and in the case of CMRS providers, a map identifying existing tower site locations for CMRS cell towers;

B. The specific geographic areas where improvements will be made;

C. The projected start date and completion date for each improvement;

D. The estimated amount of investment for each project that is funded by high-cost support;

E. The estimated population that will be served as a result of the improvements;

F. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area; and

G. A statement as to how the proposed plans would not otherwise occur absent the receipt of high-cost support and that such support will be used in addition to any expenses the ETC would normally incur;

4. A demonstration of the carrier's ability to remain functional in emergency situations, including a demonstration that the carrier has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities and is capable of managing traffic spikes resulting from emergency situations;

5. A demonstration that the commission's grant of the applicant's request for ETC designation would be consistent with the public interest, convenience and necessity;

6. A commitment to advertise the availability of services and charges therefore using media of general distribution throughout the ETC service area;

7. A commitment to provide Lifeline and Link Up discounts consistent with 47 CFR 54.401 and 47 CFR 54.411. Each request for ETC designation shall include a commitment to publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service consistent with 47 CFR 54.405;

8. A statement that the carrier will satisfy consumer privacy protection standards as provided in 47 CFR 64 subpart U and service quality standards as applicable;

9. A statement that the requesting carrier acknowledges it shall provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in that service area relinquish their designations pursuant to section 214(e) of the Telecommunications Act of 1996; and

10. A commitment to offer a local usage plan comparable to those offered by the incumbent local exchange carrier in the areas for which the carrier seeks designation. Such commitment shall include

a commitment to provide Lifeline and Link Up discounts and Missouri Universal Service Fund (MoUSF) discounts pursuant to 4 CSR 240-31, if applicable, at rates, terms and conditions comparable to the Lifeline and Link Up offerings and MoUSF offerings of the incumbent local exchange carrier providing service in the ETC service area.

(B) Each request for ETC designation by a CMRS provider shall include a commitment to abide by the consumer code for wireless service recognized by the Cellular Telecommunications and Internet Association (CTIA) at the time of the ETC designation request. As part of the initial application, a CMRS provider shall include a copy of the consumer code for wireless service currently recognized by CTIA to which it commits to abide. Any CMRS provider designated as an ETC shall file with the commission, any change(s) to the consumer code for wireless service included with its application or any subsequent code approved under this section of the rule, within thirty (30) days of the change(s). The commission shall allow interested parties thirty (30) days to provide comment as to whether the CMRS provider should be required to commit to the proposed changes, or should continue to abide by the consumer code for wireless service currently approved for that provider.

(C) Each request for ETC designation shall include a plan outlining the method for handling unusual construction or installation charges.

(3) Service Requirements of ETCs.

(A) ETCs shall develop a bill design that can be easily interpreted by their customers and clearly sets forth charges in compliance with state and federal billing requirements.

(B) ETCs shall provide customer service contact information online and on billing statements. This requirement also applies to ETCs that use a third party billing agent.

(C) Service Provisioning Commitment.

1. ETC shall make available to each end-user subscribing to its supported services within its ETC designated service area the following service features:

A. Dual tone multi-frequency signaling or its functional equivalent;

B. Single-party service or its functional equivalent;

C. Access to emergency services;

D. Emergency telephone number services capable of automatic number identification, automatic location identification and call routing facilities to facilitate public safety response; e.g., enhanced 911 service, where the local government agency serving the end-user has implemented enhanced 911 systems;

E. Access to interexchange service;

F. Access to telecommunications relay services by dialing 711;

G. Access to Directory Assistance service;

H. Access to operator services; and

I. Toll limitation and/or blocking for qualifying low-income consumers.

2. ETCs shall publicize the construction of all new facilities that will enhance services in unserved or underserved areas so that consumers are aware of the improved service in the area.

3. ETCs shall extend their networks to serve new customers upon a reasonable request. ETCs shall take the following steps, as applicable, to respond to all such reasonable requests for service within its ETC service area.

A. If a request comes from a customer residing within the ETC service area where the ETC already provides service, the ETC shall immediately provide service using its standard customer equipment.

B. If a request comes from a customer residing within the ETC service area where the ETC does not already provide service, the ETC shall take reasonable steps to provide acceptable service at no cost to the customer, including: modifying or replacing customer equipment; deploying a roof-mounted antenna or other network equipment at the premises; making adjustments at the nearest cell site

or to other network or customer facilities; employing, leasing or constructing an additional cell site, a cell-extender, repeater or other similar equipment; or offering resold service of other carriers that have facilities available to that premises.

C. Where special conditions or special requirements of the customer involve unusual construction or installation costs, the customer may be required to pay a reasonable portion of such costs in accordance with the plan outlining the method for handling unusual construction or installation charges approved by the commission at the time of designation as an ETC.

D. If there is no possibility of providing service to the requesting customer, the ETC shall notify the customer and include such information in its annual certification documentation to the commission.

(D) Within thirty (30) days of receiving ETC status, each CMRS carrier designated as an ETC shall make an informational filing with the commission consisting of a complete description of all of its service offerings. Such informational filings will be amended as service offerings are introduced or modified.

(E) ETCs shall maintain a record of customer complaints that have been received by the company in a manner that includes, at a minimum: the end-user name; the account number; a description of the complaint; the date the complaint was filed; the resolution; and the amount of refund or credit, if any. ETCs shall also maintain a record of complaints from consumers in the Missouri service area in which ETC designation was granted that have been submitted to or filed with the Federal Communications Commission for which the company has knowledge in a manner that includes, at a minimum: a description of the complaint; the date the complaint was filed; the date the complaint was resolved; the resolution of the complaint and the amount of refund or credit, if any.

(F) ETCs shall, within ten (10) days of a change in the company-designated contacts, either notify the manager of the Telecommunications Department, in writing or by electronic mail, or shall update the commission's electronic filing system (EFIS). The notification or update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s). The contact name(s) provided pursuant to this section shall be the individual(s) primarily responsible for: customer service; repair and maintenance; answering complaints; authorizing and/or furnishing refunds to customers; and informational or tariff filing issues.

(4) Annual Filing Requirements for ETCs.

(A) All ETCs, including incumbent local exchange telecommunications carriers that receive federal high-cost support, shall, by August 15 of each year, submit an affidavit executed by an officer of the company attesting that federal high-cost support is used consistent with the commission's rules and the Telecommunications Act of 1996. The affidavit will be accompanied by documentation of support received and costs incurred. The commission or its staff may request additional information regarding the annual certification. Questions regarding the appropriate documentation for ETCs should be directed to the commission's Telecommunications Department.

(B) ETCs seeking certification by October 1 of each year shall, no later than June 15 of each year, set up a meeting with the Telecommunications Department staff and the Office of the Public Counsel to review and discuss the ETC's proposal for the two (2)-year improvement plan. The meeting shall include a discussion of the proposed plan and any changes to the plan that would improve coverage, service quality or capacity in unserved or underserved areas in the Missouri service area in which ETC designation was granted.

1. A two (2)-year improvement plan shall include progress updates on any previously submitted plan. The two (2)-year improvement plan shall include, with specificity, proposed improvements or upgrades to the carrier's network on a wire center-by-wire center basis throughout its proposed designated service area and address all of the separate components addressed in the initial plan, set forth in (2)(A)2. above.

2. Reports on unfilled service requests and customer complaints for the previous year and how the two (2)-year improvement plan may address such requests and complaints.

(C) ETCs shall submit a demonstration that the receipt of high-cost support was used only for the provision, maintenance and upgrading of facilities and services for which the support is intended in the Missouri service area in which ETC designation was granted.

1. For purposes of this section, "support is intended" is defined consistent with the Telecommunications Act which outlines the following principles:

A. Quality and rates—quality services should be available at just, reasonable, and affordable rates;

B. Access to advanced services—access to advanced telecommunications and information services should be provided in all regions of the state;

C. Access in rural and high-cost areas—consumers in all regions of Missouri, including those in rural, insular and high-cost areas will have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

(D) ETC shall submit a demonstration that high-cost support was used to improve coverage, service quality or capacity in the Missouri service area in which ETC designation was granted and that such support was used in addition to any expenses the ETC would normally incur.

(E) ETCs shall submit an affidavit signed by an officer of the company certifying that the ETC continues to comply with the approved consumer code for wireless service recognized by the Cellular Telecommunications and Internet Association (CTIA) and/or applicable service quality standards and consumer protection rules, certifying that the ETC continues to be able to function in emergency situations, continues to offer a local usage plan comparable to that offered by the incumbent local exchange telecommunications carrier in the relevant service areas (if applicable), and continues to acknowledge that it shall provide equal access pursuant to 4 CSR 240-32.100(3) and (4) if all other ETCs in that service area relinquish their designations pursuant to section 214(e)(3) of the Telecommunications Act of 1996.

(F) ETCs shall submit a report of complaints from consumers in the Missouri service area in which ETC designation was granted that have been submitted to or filed with the Federal Communications Commission in the previous twelve (12) months for which the company has knowledge. Such report shall include, at a minimum: a description of the complaint; the date the complaint was filed; the date the complaint was resolved; the resolution of the complaint and the amount of refund or credit, if any. If the commission finds the ETC's resolution of complaints is not satisfactory or if a particular type of complaint is recurring without being satisfactorily addressed, then the commission may decline to certify the ETC during the annual certification process.

(G) An application for ETC designation shall be deemed to be acceptance of Missouri Public Service Commission jurisdiction over any issues related to ETC designation and status and USF funding and acceptance of additional rules made applicable to that ETC.

(H) All ETCs, including incumbent local exchange telecommunications carriers, in non-rural areas of Missouri shall, in conjunction with the annual high-cost certification process, assist the commission staff in comparing residential rates in rural areas served by non-rural incumbent local exchange carriers to urban rates nationwide.

(I) All reports required to be submitted to the commission shall be attested to by an officer or authorized agent of the ETC or incumbent local exchange telecommunications carrier.

(J) Except as otherwise provided in commission rules, ETCs shall keep all books and records associated with its ETC designation and/or the commission's annual certification process in accordance with good business practices, and at such place as they are normally

kept in the usual course of business. The ETC shall make its books and records associated with its ETC designation and/or the commission's annual certification process available to the commission at reasonable times for examination and inspection at a location designated by the commission.

(K) All records required by this rule shall be preserved for at least two (2) years.

(L) ETCs, or carrier requesting ETC designation, shall promptly furnish requested information, including financial information, related to its designation as an ETC to the commission, its staff or the Office of the Public Counsel.

(5) Additional Requirements.

(A) Each CMRS provider shall submit to the commission a letter reflecting a change to the name and/or change, deletion or addition of a trade name under which the ETC will be doing business in the state of Missouri, attaching, as applicable, an amended Certificate of Incorporation, Fictitious Name registration or an amendment thereof. The CMRS provider shall modify its current informational filing, as required in subsection (3)(D) to reflect the new name and shall attest that no revisions are being made, except for the name change.

(B) ETCs shall not self-certify to the Universal Service Administrative Company for receipt of federal universal service funds.

(C) ETCs, including incumbent local exchange telecommunications carriers, shall not willfully make any false entry in any business record of any kind kept by it, nor shall it willfully destroy, mutilate, alter or by any method falsify any such record, nor shall it willfully neglect or fail to make full, true and correct entries in such records of all facts and transactions appertaining to its business, nor shall it falsify any statement to the commission.

(D) Allegations of failure to comply with this rule shall be filed with the commission in the form of a formal complaint pursuant to 4 CSR 240-2.070. Resolution of the complaint may result in revocation of the ETC designation.

(E) The commission shall not certify, by October 1 of each year, any ETC, including incumbent local exchange telecommunications carriers, that fails to comply with these rules.

(F) ETCs shall submit to the commission staff, by August 15, 2006, a statement of compliance with 4 CSR 240-3.570. All carriers with requests for ETC designation pending as of the effective date of this rule shall submit, within thirty (30) days of the effective date of the rule, any missing information required by 4 CSR 240-3.570 or a statement that all required information was previously submitted as part of the request for ETC designation.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 270—Missouri Veterinary Medical Board
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri Veterinary Medical Board under sections 340.210, 340.228 and 340.300, RSMo 2000, the board amends a rule as follows:

4 CSR 270-1.031 Application Procedures is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 19–20). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 270—Missouri Veterinary Medical Board
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri Veterinary Medical Board under sections 340.210, 340.258, 340.314, 340.322, 340.324 and 340.326, RSMo 2000 and 340.262, 340.312 and 340.320, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 270-1.050 Renewal Procedures is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 20). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 270—Missouri Veterinary Medical Board
Chapter 4—Minimum Standards**

ORDER OF RULEMAKING

By the authority vested in the Missouri Veterinary Medical Board under sections 340.210, 340.224 and 340.264, RSMo 2000, the board amends a rule as follows:

**4 CSR 270-4.011 Minimum Standards for Veterinary Facilities
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 20-22). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 270—Missouri Veterinary Medical Board
Chapter 4—Minimum Standards**

ORDER OF RULEMAKING

By the authority vested in the Missouri Veterinary Medical Board under sections 340.210, 340.264 and 340.284, RSMo 2000, the board amends a rule as follows:

**4 CSR 270-4.041 Minimum Standards for Medical Records
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 23). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 40—Division of Fire Safety
Chapter 2—Boiler and Pressure Vessel Safety Rules**

ORDER OF RULEMAKING

By the authority vested in the Division of Fire Safety under section 650.215, RSMo 2000, the division amends a rule as follows:

11 CSR 40-2.010 Definitions is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2006 (31 MoReg 318-319). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 40—Division of Fire Safety
Chapter 2—Boiler and Pressure Vessel Safety Rules**

ORDER OF RULEMAKING

By the authority vested in the Division of Fire Safety under section 650.215, RSMo 2000, the division amends a rule as follows:

11 CSR 40-2.015 Code/Standards Adopted by Board is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2006 (31 MoReg 319-320). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 40—Division of Fire Safety
Chapter 2—Boiler and Pressure Vessel Safety Rules**

ORDER OF RULEMAKING

By the authority vested in the Division of Fire Safety under section 650.215, RSMo 2000, the division amends a rule as follows:

11 CSR 40-2.030 Power Boilers is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2006 (31 MoReg 320). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 40—Division of Fire Safety
Chapter 2—Boiler and Pressure Vessel Safety Rules**

ORDER OF RULEMAKING

By the authority vested in the Division of Fire Safety under section 650.215, RSMo 2000, the division amends a rule as follows:

11 CSR 40-2.040 Heating Boiler is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2006 (31 MoReg 320-321). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 301.280, RSMo Supp. 2005 and 407.536.8, RSMo 2000, the director amends a rule as follows:

**12 CSR 10-23.420 Secure Power of Attorney Requirements
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2006 (31 MoReg 216). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 301.196, 301.197, 301.198 and 301.280, RSMo Supp. 2005, the director adopts a rule as follows:

12 CSR 10-23.470 Notice of Sale is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2006 (31 MoReg 216-217). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Driver License Bureau Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 302.272, RSMo Supp. 2005, the director rescinds a rule as follows:

**12 CSR 10-24.370 Criteria for an Approved School Bus
Program to Waive the Written Examination is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 1, 2006 (31 MoReg 217). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Driver License Bureau Rules**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 302.272, RSMo Supp. 2005, the director rescinds a rule as follows:

**12 CSR 10-24.400 Delegation of Authority to Administer
Missouri School Bus Operator's Permit Examinations
is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 1, 2006 (31 MoReg 217). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 40—State Lottery
Chapter 80—General Rules—Instant Game**

ORDER OF RULEMAKING

By the authority vested in the Missouri Lottery Commission under section 313.220, RSMo Supp. 2005, the commission amends a rule as follows:

12 CSR 40-80.080 Claim Period is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2005 (30 MoReg 2563). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE
Division 400—Life, Annuities and Health
Chapter 2—Accident and Health Insurance in General**

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000 the director adopts a rule as follows:

20 CSR 400-2.170 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2006 (31 MoReg 219-221). Those sections with changes have been reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received eleven (11) comments on the proposed rule.

COMMENT: The department received two (2) comments that lump sum payments under paragraphs (3)(A) 2. and 3. be allowed to be made by the parent company on behalf of all affiliates and that affiliation be determined by the National Association of Insurance Commissioners (NAIC) four (4)-digit group code.

RESPONSE: The department responds that the affiliation by NAIC four (4)-digit group code is already incorporated into the rule under subsection (1)(E). There is no change needed in the rule based on this comment. The department will continue to work with Department of Elementary and Secondary Education (DESE) and the carriers for a more practical implementation of the lump-sum payment provision for affiliated carriers.

COMMENT: The department received a suggestion that the word "together" be added after the word "affiliates" in paragraph (3)(A)3.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this suggestion and adds the word "together" in paragraph (3)(A)3.

COMMENT: The department received a suggestion that the definition of "health benefit plan" in subsection (1)(F) include all of the excluded lines of business identified in section 376.1218.8, RSMo Supp. 2005.

RESPONSE: The department feels that the statute is clear on the exclusions and declines to make this change. The definition referenced for "health benefit plan" is a commonly used definition in many other statutes and regulations which also include excluded lines of business.

COMMENT: The department received a comment asking for a clarification on the definition of "assistive technology devices" in subsection (1)(A) and asked for a reference to a deemed rate on products not included in the applicable Medicaid rate schedule.

RESPONSE AND EXPLANATION OF CHANGE: The department responds that the definition in subsection (1)(A) of "assistive technology device" was taken from an existing federal regulation defining this term and declines to change the definition. However, the department does agree that subsection (3)(E) should be changed to include "an" applicable Medicaid rate for such services or "assistive technology devices."

COMMENT: The department received a comment asking for clarification of paragraph (3)(A)1. on the "per policy, per year" statutory obligation and when the "first steps" mandate becomes applicable to a group policy.

RESPONSE AND EXPLANATION OF CHANGE: The department feels that section 376.1218.1, RSMo Supp. 2005 is clear in that it obligates every carrier providing coverage in a calendar year to a three thousand dollar (\$3,000)-maximum annual benefit. The department does not think a change is necessary in this section of the rule. However, the department is willing to incorporate the statutory obligation into the rule and adds a new section (2). In addition, each subsection following section (2) will be renumbered accordingly.

COMMENT: The department received a comment regarding subsection (3)(B) asking for a confirmation on the time frame on the applicability of the prompt pay laws found in section 376.383 and section 376.384, RSMo Supp. 2005, to payments for First Step claims.

RESPONSE: The department feels that section 376.1218.5, RSMo Supp. 2005, is sufficiently clear and no change to the rule is needed.

COMMENT: The department received a comment regarding paragraph (3)(C)1. and the ability of a health carrier to obtain DESE records on payments of claims for a given child in a given year.

RESPONSE: The department responds by stating that since each carrier is obligated to payment of the full three thousand dollar (\$3,000)-benefit per member per policy per calendar year, there is no need for a health carrier to know the payments made by a prior carrier in a given year and decline to make any changes to the rule in that regard.

COMMENT: The department received a comment asking for clarification of subparagraphs (3)(C)3.B. and E., on the electronic billing format to be used by the carriers. The comment suggests that the electronic billing form be consistent with the federal Health Insurance Portability and Accountability Act (HIPAA) format.

RESPONSE: The department responds that the rule does reference "an electronic format consistent with federal administrative simplification standards, format and content adopted pursuant to the Health Insurance Portability and Accountability Act of 1996." The department declines to make a change to the rule in this regard.

COMMENT: The department received a comment on subparagraph (3)(C)3.D. and clarification as to whom this section of the rule applies.

RESPONSE: The department feels that subparagraph (3)(C)3.D. is clear that it applies to health carriers in stating that: "Health carriers shall not bundle claims for First Steps Programs." Therefore, the department does not feel a change to the rule is necessary.

COMMENT: The department received a comment regarding paragraph (3)(C)4. and the obligation of multiple health carriers to be required to pay individual three thousand dollar (\$3,000)-benefit maximum on one (1) child per calendar year and whether a lump sum payment by a primary carrier will absolve a secondary carrier from any further payment obligation.

RESPONSE AND EXPLANATION OF CHANGE: The department feels that section 376.1218, RSMo Supp. 2005, is clear in obligating any health carrier or health benefit plan with an applicable contract of coverage to pay three thousand dollars (\$3,000) per member, per policy, per calendar year. If a health carrier satisfies their obligation with a lump sum payment, this payment does not relieve secondary health carriers from their obligation. To clarify the department has added a new subparagraph A to 20 CSR 400-2.170(3)(C)4. Subsequent subparagraphs have been renumbered accordingly.

COMMENT: The department received a comment regarding waiver by DESE of member's out of pocket expenses and tax consequences for members on a qualified high deductible health plan with a corresponding Health Savings Account.

RESPONSE: The department responds by noting that the issues raised in the comment, although directed to the department, are not under control of the department and therefore no changes are being made to the rule in that regard.

20 CSR 400-2.170 Early Intervention Part C Coverage

(2) Health benefit plans shall provide this coverage on the first date on or after January 1, 2006, on which the contract or certificate is delivered, issued for delivery, continued or renewed in this state.

(3) Health Carriers to Recognize First Steps as Provider.

(A) First Steps shall be considered the rendering provider for all claims covered under section 376.1218, RSMo, and this rule.

(B) First Steps shall be considered a participating and/or network provider by all health carriers. All health carriers shall use the Missouri standardized credentialing form or the Federal W-9 tax form to establish network provider status for First Steps. Health carriers shall take all necessary steps to assure that claims submitted by First Steps are not denied, delayed, or reduced for reasons related to network participation.

(4) Requirements for Acceptance and Payment of Claims.

(A) Health carriers shall have the option to pay claims for First Steps services in one (1) of three (3) ways:

1. A health carrier shall pay individual claims submitted for each service to First Steps as the rendering provider, and such coverage shall be limited to three thousand dollars (\$3,000) for each covered child per policy per calendar year, with a lifetime policy maximum of nine thousand dollars (\$9,000) per child. Such payments shall not exceed one-half of one percent (0.5%) of the direct written premium for health benefit plans; or

2. A health carrier and all of its affiliates together shall submit a lump sum payment to First Steps for one-half of one percent (0.5%) of the direct written premiums reported to the Department of Insurance on each health carrier's most recently filed annual financial statement, per calendar year, which shall satisfy each affiliated health carrier's payment obligation for First Steps services for such calendar year; or

3. A health carrier and all of its affiliates together shall make a lump sum payment of five hundred thousand dollars (\$500,000), per calendar year, to First Steps, which shall satisfy the health carrier and its affiliates' payment obligation for First Steps services for such calendar year.

4. As between paragraphs 2. and 3. of this subsection, the health carrier shall pay whichever amount is less.

(B) Payment of individually submitted claims under paragraph (4)(A)1. shall be subject to the requirements of sections 376.383 and 376.384, RSMo, as of January 1, 2007.

(C) For health carriers opting to make payments on individual claims under paragraph (4)(A)1.:

1. Such health carriers shall be responsible for keeping records to determine when the maximum three thousand dollars (\$3,000) per child, per policy, per calendar year has been reached. If there is an irreconcilable discrepancy between a health carrier's records and Missouri Department of Elementary and Secondary Education (DESE) records, DESE's records shall prevail.

2. Such health carriers shall amend their applicable coverage documents to reflect First Steps benefits, and may do so by endorsement.

A. Such documents shall contain the same or substantially the same benefit description as stated in section 376.1218, RSMo, subsection 1.

3. Health carriers shall receive and issue payment for First Steps claims.

A. All claim payments shall be sent to DESE's designee.

B. Health carriers shall submit all First Steps remittance advices to DESE's designee in an electronic format consistent with federal administrative simplification standards, format and content adopted pursuant to the Health Insurance Portability and Accountability Act of 1996. Such remittance advices shall be submitted in a format agreed to by DESE.

C. Health carriers shall not deny, delay or reduce payment of First Steps claims based on their own determination of medical necessity or diagnosis, but shall in all cases defer to the services stated on the individual family service plan.

D. Health carriers shall not bundle claims for First Steps services.

E. For all adjustments on claim overpayments, such health carriers shall submit to DESE's designee in an electronic format consistent with federal administrative simplification standards, format and content adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, remittance advices on a per claim adjustment reflecting the individual and cumulative claim adjustment. Such remittance advices shall be submitted in a format agreed to by DESE.

4. Coordination of benefits requirements.

A. All health benefit plans in effect during a calendar year or any portion thereof, shall be obligated under the provisions of section 376.1218, RSMo for reimbursement of the early intervention services provided for any covered child entitled to early intervention services as described in section 376.1218, RSMo up to the maximum annual reimbursable amount of three thousand dollars (\$3,000) with a nine thousand dollar (\$9,000)-lifetime maximum per child.

B. Failure of a parent or guardian to elect to assign a right of recovery or indemnification to the First Steps program shall not reduce claim payments to First Steps from secondary plans as defined in 20 CSR 400-2.030.

C. Notification from DESE that a primary plan, as defined in 20 CSR 400-2.030, has submitted a lump sum payment under paragraphs (4)(A)2. or 3. shall be sufficient notice to a secondary plan that such primary plan has fulfilled its payment obligations for First Steps services for that year.

(D) Health carriers shall accept and reimburse First Steps claims up to one (1) year after the date of service. Health carriers that otherwise require participating providers to submit claims in a shorter period of time than one (1) year shall waive this requirement for First Steps claims.

1. Health carriers that allow more than one (1) year for claims submission shall allow the same amount of time for First Steps claims submissions.

(E) There will be a presumption that the charges for First Steps services provided under section 376.1218, RSMo, and this rule, are being billed at an applicable Medicaid rate for such services or assistive technology devices.

(F) Health carriers electing a lump sum payment under paragraphs (4)(A)2. or 3. will be invoiced by DESE after January 1 of each year, with payments due no later than January 31 of that year. The lump sum payment shall be due no later than January 31 of each year regardless of the effective dates of the individual insurance plans.

(G) Health carriers that elect a lump sum payment under paragraphs (4)(A)2. or 3. and then fail to make such payment no later than January 31 of that year, shall be considered in violation of insurance law and be subjected to penalty, as allowed under the insurance laws of the state of Missouri.

(H) Lump sum payments under paragraphs (4)(A)2. and 3. shall not be credited against any health benefit plan lifetime maximum aggregates.

(I) For health carriers electing the lump sum payment option under paragraph (4)(A)2., the amount of direct written premium used to determine such health carriers' payment obligations for First Steps services will be the amount on record with the Missouri Department of Insurance on the most recently filed annual financial statement and any filed amendments as of September 1 of each year.

(5) Prior Authorization.

(A) Health carriers shall not require prior authorization for First Steps treatments and shall not deny, delay or reduce claim payments for failure to obtain prior authorization.

(6) Transactions Affecting Affiliation of Health Carriers.

(A) In the event of a transaction affecting affiliation of health carriers, the NAIC group code as of December 31 of the preceding year that payment for First Steps claims is due will determine affiliation of health carriers, and also, the total amount due to DESE if the applicable health carriers elect a lump sum payment option under paragraphs (4)(A)2. and 3.

**Title 20—DEPARTMENT OF INSURANCE
Division 700—Licensing
Chapter 6—Bail Bond Agents and Surety
Recovery Agents**

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under sections 374.045, RSMo 2000 and 374.705, 374.710, 374.730 and 374.784, RSMo Supp. 2005, the director amends a rule as follows:

20 CSR 700-6.100 Applications, Fees and Renewals—Bail Bond Agents, General Bail Bond Agents and Surety Recovery Agents is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2006 (31 MoReg 221-223). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—State Membership**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director rescinds a rule as follows:

22 CSR 10-2.010 Definitions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 1, 2006 (31 MoReg 224). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—State Membership**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director adopts a rule as follows:

22 CSR 10-2.010 Definitions is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2006 (31 MoReg 224-228). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—State Membership**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director amends a rule as follows:

**22 CSR 10-2.020 Subscriber Agreement and General
Membership Provisions is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2006 (31 MoReg 228-229). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—State Membership**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director adopts a rule as follows:

**22 CSR 10-2.050 PPO and Co-Pay Benefit Provisions and
Covered Charges is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2006 (31 MoReg 229-230). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—State Membership**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director adopts a rule as follows:

22 CSR 10-2.060 PPO and Co-Pay Plan Limitations is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2006 (31 MoReg 230-232). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—State Membership**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director adopts a rule as follows:

**22 CSR 10-2.064 HMO and POS Summary of Medical
Benefits is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2006 (31 MoReg 232). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—State Membership**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director adopts a rule as follows:

22 CSR 10-2.067 HMO and POS Limitations is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2006 (31 MoReg 232-234). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—State Membership**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director adopts a rule as follows:

22 CSR 10-2.090 Pharmacy Benefit Summary is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2006 (31 MoReg 234-236). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.